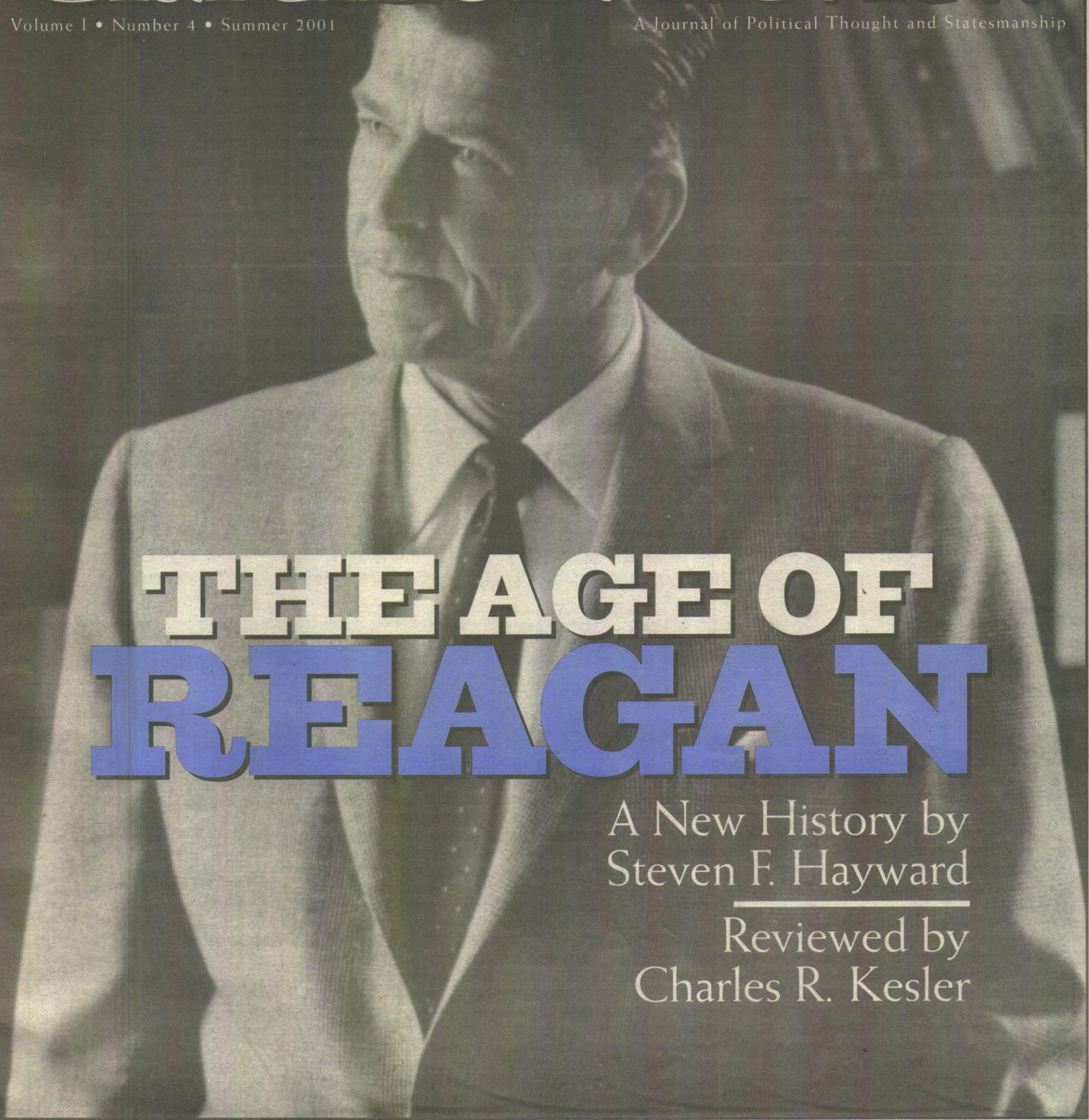


JEFFERSON & HEMINGS • PRAGMATISM'S USELESS IDEAS

Claremont Review OF BOOKS

Volume 1 • Number 4 • Summer 2001

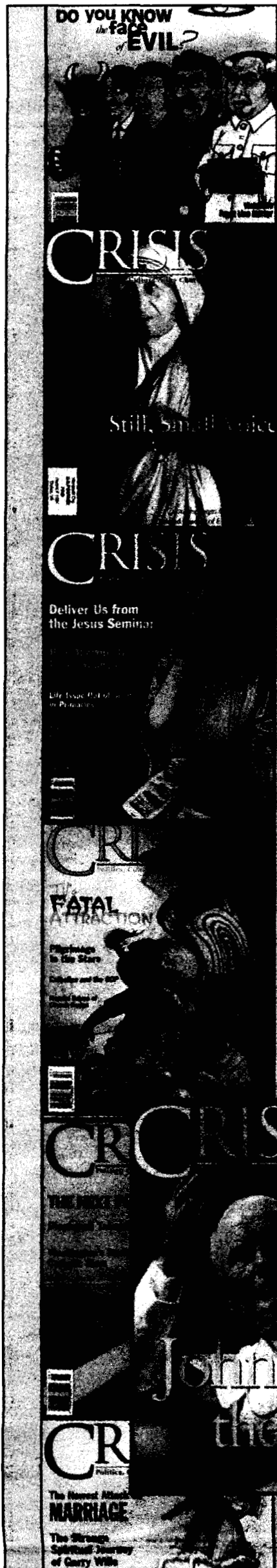
A Journal of Political Thought and Statesmanship



THE AGE OF REAGAN

A New History by
Steven F. Hayward

Reviewed by
Charles R. Kesler



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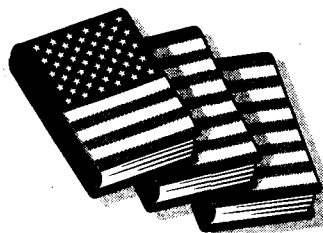
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REVIEWS & ESCAPE



Pragmatism's Four Horsemen

BY THOMAS B. SILVER

The Metaphysical Club, by Louis Menand. Farrar, Straus & Giroux, 546 pages, \$27

TWO PICTURES BRACKET *THE METAPHYSICAL CLUB*, Louis Menand's brilliant account of the rise of pragmatism. The frontispiece is a drawing of the soldier Wilky James, sketched by his brother William as Wilky lay convalescing from

grievous wounds suffered in the Union assault on Fort Wagner in the summer of 1863. The book ends with a photograph of the pacifist John Dewey seated at his typewriter in the serenity of Nova Scotia in the 1940s. Connecting these two pictures is an epic of war and peace, an Iliad of the heroism and horror of the American Civil War, and an intellectual odyssey of four men who were profoundly shaped by it, and who in turn profoundly reshaped America — Oliver Wendell Holmes, William James, Charles

Pierce, and John Dewey.

"For the generation that lived through it," writes Menand, "the Civil War was a terrible and traumatic experience. It tore a hole in their lives. To some of them, the war seemed not just a failure of democracy, but a failure of culture, a failure of ideas. As traumatic wars do — as the World War I would do for many Europeans 60 years later and as the Vietnam War would do for many Americans 100 years later — the Civil War discredited the beliefs and assumptions of the era that preceded it."

The beliefs and assumptions that replaced those discredited by the Civil War came to be called "pragmatism," a term coined by Charles Pierce in a paper he read to the final meeting of the Metaphysical Club in December 1872. The "club," an informal discussion group, had been formed in January of that year in Cambridge, Massachusetts, and included among its members James, Pierce, and Holmes.

The core of pragmatism, according to Menand, is an idea about ideas: that they should never harden into ideologies. Holmes, James, Pierce and Dewey "all believed that ideas are not 'out there' waiting to be discovered, but are tools — like forks and knives and microchips — that people devise to cope with the world in which they find themselves.... And they believed that since ideas are provisional responses to particular and unreproducible circumstances, their survival depends not on their immutability but on their adaptability." Under the Darwinian imperative of pragmatism, we must be prepared to discard our old ideas as readily as we discard our old tools.

Seen from the perspective of pragmatism, the Civil War was an ideological conflict.

REVIEWS & ESSAYS

There was nothing "provisional" about the ideas of the two sides, each of which was more than prepared to give the last full measure of devotion to its cause. Because it demands certitude, war is not congenial to pragmatism. (It is this, Menand suggests, that accounts for the decline of pragmatism's influence during the Cold War.) War requires a life-and-death commitment, and for most people that requires a faith that what they are fighting for is worth dying for. Most men are unwilling to risk maiming or death over forks, knives, and microchips.

Democracy failed in antebellum America, the pragmatists claimed, because ideas hardened into ideologies that led ineluctably to bloodshed. "The lesson Holmes took from the war," says Menand, "can be put in a sentence. It is that certitude leads to violence." This is the central theme of *The Metaphysical Club*. Violence, being the substitution of bullets for ballots, is the negation of democracy. Therefore, certitude is the negation of democracy. By teaching our citizens that a better basis for democracy is the notion that all ideas are "contingent, relative, fallible constructions," pragmatism fills the void created by the Civil War.

World War I taught John Dewey what the Civil War had taught Holmes. Dewey therefore became a pacifist in time for World War II. Holmes had fought with incredible bravery during the Civil War, being wounded three times. Unlike Dewey, Holmes thought it neither possible nor desirable for societies to renounce the use of violence, notwithstanding his belief, shared with James and Dewey, that all beliefs are groundless.

WHEN DEMOCRACY BREAKS DOWN, and disagreements between men lead to war, what is to be done? Menand's account appears to leave us three choices: 1) we can eagerly slaughter each other in an uncompromising and self-righteous spirit of ideological fanaticism (his view of both John Brown and the Southern firebrands); 2) we can resolutely kill and be killed with full awareness that our differences are, from the point of view of human reason, utterly groundless (Holmes); or 3) we can opt out pacifically while, for example, Hitler liquidates European Jewry and embarks on a project of world domination (Dewey). The range of alternatives is, to say the least, unsatisfactory.

Which brings us to the central problem with *The Metaphysical Club*. Menand is a master storyteller, who has woven together threads of biography and intellectual history into a magnificent tapestry of the American mind. But one thread is missing. Where is the political philosophy of Abraham Lincoln? This is no small omission. For it was neither the principles of the Northern abolitionists nor those of the Southern slaveholders that triumphed in the Civil War and laid the basis for American political life in the post-bellum decades. It was, as Menand acknowledges, the principles of the party of

Lincoln. This means the principles of the Declaration of Independence.

Until the pragmatists came along, most Americans did not regard the "Laws of Nature and of Nature's God" as provisional or in need of re-tooling. But for the pragmatists the principles of the Declaration were among the beliefs "discredited" by the Civil War. Citing Horace Kallen (student of William James and a founder of multiculturalism), Menand says that for him "the Declaration was an instrument of its time, and its assertion of natural rights was the appropriate response to the assertion of the divine right of kings. Still, times had changed and the Declaration needed to be rewritten."

Abraham Lincoln did not believe that the principles of the Declaration were provisional, transient, contingent, relative, or fallible. He thought that they were true, everywhere and always. He did not believe that they were constructs but rather discoveries of human reason. He did not believe that the doctrine of natural rights had been appropriate in the 18th century but had hardened into an ideology by the 19th. The central principle of the Declaration is the proposition that all men, including all black men, are created equal. Did the Civil War discredit this proposition?

Richard Rorty, the leading contemporary heir to the thought of James and Dewey, does not shrink from the conclusion. The proposition, "Blacks have no rights which whites are bound to respect," is not, he says, one that human reason can refute. According to pragmatism, the rights of black people, like the rights of all people, are contingent and transient—not a birthright arising from a common humanity, as Lincoln had argued. Is this alleged discovery by pragmatism truly an advance in human thought?

Menand is aware of the problem. Martin Luther King, Jr. he notes, "was not a pragmatist, a relativist, or a pluralist, and it is a question whether the movement he led could have accomplished what it did if its inspirations had come from Dewey and Holmes...." King, like Lincoln before him, believed that the Declaration of Independence was true, and that America ought to live up to it.

But doesn't the certitude of a King or a Lincoln lead to violence, as the certitude of the abolitionists and the secessionists led to violence? If the statesmanship of Abraham Lincoln, like that of Martin Luther King, demonstrates anything, it is that strong moral beliefs do not necessarily imply fanaticism. This rather decisively cuts the ground out from under Menand's brief for the pragmatists.

"The political system [the pragmatists'] philosophy was designed to support was democracy. And democracy, as they understood it, isn't just about letting the right people have their say; it's also about letting the wrong people have their say," Menand observes. "It is about giving space to minority and dissenting views so that, at the end of

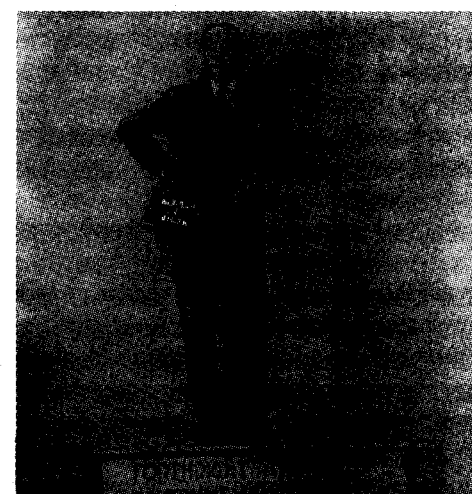
the day, the interests of the majority may prevail." But this is not an insight unique to pragmatism. The reconciliation of majority rule with minority rights is one of the great themes (and problems) of the American founding.

THE FOUNDING FATHERS AND LINCOLN would have rejected the pragmatist claim that we need to jettison all certitudes in order to make democracy work. On the contrary, certitude about the doctrine of human equality is the basis of modern democracy. Equality entails both protection of rights and the consent of the governed. American constitutionalism is the translation of these principles into practice. In their defense of human rights as they understood them, the abolitionists and the slaveholders were united in their willingness to sacrifice the Constitution, i.e., to proceed without attempting to secure the consent of a constitutional majority. Lincoln was not. This difference accounts for their fanaticism and Lincoln's moderation.

Lincoln's prudence, like that of all great statesmen, was not ideological in character. It operated with a certain latitude or flexibility of means, yet always within a fixed moral horizon, in the absence of which it would have been unintelligible. The problem with pragmatism is that it wrongly extends the latitude and flexibility that the prudent statesman exercises in the realm of means to the realm of ends. In so doing it reduces all human ends to mere preferences or subjective values and thus renders unintelligible democracy itself. Democracy, the process by which the consent of the governed is secured, cannot rationally claim an exception from the subjectivity of all human ends. But if the commitment to consent of the governed is a mere preference, then there is no objective, rational basis on which pragmatism can condemn the abolitionists and the secessionists. As Leo Strauss once put it, "Liberal relativism has its roots in the natural right tradition of tolerance...but in itself it is a seminary of intolerance."

ALTHOUGH LOUIS MENAND'S ACCOUNT of the development of pragmatism is illuminating and historically faithful, it never takes off its philosophical blinders. We are left with a rich portrait of the pragmatists, but an impoverished picture of the most important thinkers they contended against. "As with every change," writes Menand, "there was gain and loss. This story, if it has been told in the right way, should help make possible a better measure of both." By this standard, *The Metaphysical Club* is a double disappointment: it fails to persuade us of what was gained, and it fails to tell us what was lost.

Thomas B. Silver is publisher of the Claremont Review of Books and president of the Claremont Institute.



Al Smith and the Liberalism That Might Have Been

BY JAMES HIGGINS

Empire Statesman: The Rise and Redemption of Al Smith, by Robert A. Slayton. Free Press, 480 pages, \$30

ALFRED E. SMITH WAS FEATURED recently in two PBS documentary series, *New York* and *The Irish in America*. Yet he is all but unknown today, even within the Democratic Party he once led. Smith has been called the most underappreciated political figure in 20th century America. Indeed, the last proper biography of Smith, and the only one still in print, was published in 1958. Robert A. Slayton attempts to remedy this neglect with *Empire Statesman: The Rise and Redemption of Al Smith*.

Smith was the first politician of national stature to rise from the ranks of urban immigrants, in his case, the Irish-American immigrants of downtown Manhattan. He became a four-term governor of New York and, in 1928, the first Roman Catholic to win a major party's presidential nomination.

His accomplishments at the helm of the Empire State far surpass those of Theodore or Franklin Roosevelt. Smith's policies did not bring the state to financial ruin, as did the reckless spending programs of later governor Nelson Rockefeller, a nominal Republican. It is arguable that no governor since Al Smith has actually improved the administration of taxpayer dollars in New York state.

Slayton, a professor of history at Chapman University in Orange, California,

SEE SMITH ON PAGE 19

Liberal chic.gov

BY EDWARD J. ERLER

republic.com, by Cass R. Sunstein.
Princeton University Press, 224 pages,
\$19.95

THE LIBERAL LOVE AFFAIR WITH THE Internet appears to be on the rocks. The Information Superhighway promised to set us free — or make us more liberal anyway. But it appears that liberalism's love was unrequited. Perhaps that's because the liberal assumptions were all wrong. Information alone does not lead to liberation or liberalism. The truth will set you free, but mere information has no such power. Some years ago, billboards urged citizens to "fight fear with the facts: call the AIDS hotline." Anyone who called, of course, was likely to be scared to death by the facts of the AIDS epidemic. The promise of liberation from fear is good only insofar as there are no fearful facts — an utterly absurd proposition. Although liberalism's affair with the Internet may prove to be illicit, its long-term commitment to the unquestioned assumptions of enlightenment rationalism remains strong.

Cass Sunstein's *republic.com*, the epitome of liberal chic, chronicles the unhappy decline of the Internet as an object of liberal ardor. In the beginning, the Internet was dominated by .edu, .org and .gov domains. This provided a convenient meeting place for the diverse and multicultural. Gradually, however, the dot-coms took over, producing "consumer treadmills" in which "we buy more and better goods not because they make us happier or better off but because they help us keep up with others." Consumerism — individual and unregulated choice — poses a grave danger to "deliberative democracy" because it fractures the universe of public discourse.

Sunstein concludes that the Internet is in need of regulation because free choice does not always produce genuine freedom. Nothing characterizes Sunstein's concept of freedom more than Rousseau's injunction that men must be forced to be free. In fact, Sunstein seems to believe (with apologies to Socrates) that the unregulated life is not worth living.

For example, Sunstein misses the good old days of the Fairness Doctrine. The Fairness Doctrine, of course, was anything but fair. It did, however, give a virtual on-air monopoly to liberalism. (Note that the demise of the Fairness Doctrine led to the ascendancy of conservative talk radio.) Although liberalism parades under the banner of fairness and diversity, it is in fact stubbornly intolerant. Campaign finance

reform — enthusiastically promoted by Sunstein — is another good example. House Minority Leader Richard Gephardt remarked not long ago that "freedom of speech" is incompatible with "our desire for healthy campaigns in a healthy democracy." Sunstein adds an interesting fillip: "The Supreme Court has held that financial expenditures on behalf of political candidates are protected by the free speech principle — and in an act of considerable hubris, the Court has also held that it is illegitimate for government to try to promote political equality by imposing ceilings on permissible expenditures. The inequality that comes from divergences in wealth is not, on the Court's view, a proper subject for political control. Here too an idea of consumer sovereignty seems to be at work."

Sunstein relies heavily on a quotation from James Madison, that freedom of speech is "the only effectual guardian of every other right" because it is a "right of freely examining public characters and measures." But apparently unknown to Sunstein, Madison also insisted that there was an essential connection between property rights and speech rights. Madison wrote in 1792 that the right to property includes "property of every sort," especially "opinions and the free communication of them." "In a word," Madison concluded, "as a man is said to have a right to his property, he may be equally said to have a property in his rights."

No tension existed in Madison's mind between the right to property and freedom of speech; indeed, the right to property is seen by Madison as the comprehensive right. As the proponents of campaign-finance reform realize, the most effective way to regulate speech is to regulate property. Madison's precise warning was that any assault on freedom of speech would likely be disguised as a regulation of property.

Sunstein, however, argues that we should forthrightly recognize the necessity of regulating both property and speech. The model

would be the New Deal revolution, which used the regulation of property rights as a way of redistributing wealth. No one should be surprised about this, Sunstein insists. After all, property rights exist only because of government regulations — the enforcement of contract and trespass laws among a host of others. Since government creates the right to property (it is not a natural right as Madison naively believed), government should regard property rights as a public, rather than a private, good. Once we accept the necessity of regulating property, it is a short step to the realization that "consumer sovereignty" should not be the model for free speech, either in the public square or on the Internet. Free speech can be regulated for the common good as much as property.

There are two major problems with the Internet that need correction. Individuals can be highly selective in choosing what they will encounter. Sunstein calls this "filtering." It allows the complete personalization of the Internet experience. Thus individuals will not encounter "unanticipated, unchosen interactions" as they would in a public forum where they would be members of a captive audience. Filtering is harmful to diversity because it allows the user to avoid opposing points of view. On the Internet, each person can become an island. And on this island, democratic deliberation about the public interest and its problems is impossible — and most importantly, this island is the breeding ground of the heterodoxy that liberalism fears.

A RELATED PROBLEM IS THAT, ON THE Internet, like-minded people can get together too easily. And we know that when like-minded people talk only to one another, extremism is the probable result. Indeed, "the Internet is serving, for many, as a breeding ground for extremism." Perhaps the most troubling extremism to appear on the Internet (and on talk radio) is opposition to big government and intrusive regulation. But,

Sunstein assures us, "opposition to government regulation is incoherent." Both individual filtering and group polarization detract from the "shared experiences" that are the core of community and deliberative democracy.

This problem, which is endemic to democratic life (because it is endemic to freedom), is greatly exacerbated by the Internet. This problem was once handled by general interest intermediaries that "filtered" information in a way to create common experiences. It was a great benefit to deliberative democracy, Sunstein argues, when there were only a few major news networks. The network monopoly allowed the media elite to filter from a welter of diversity the common experiences required of democracy — it was only incidental that the filtering was dominated by liberalism.

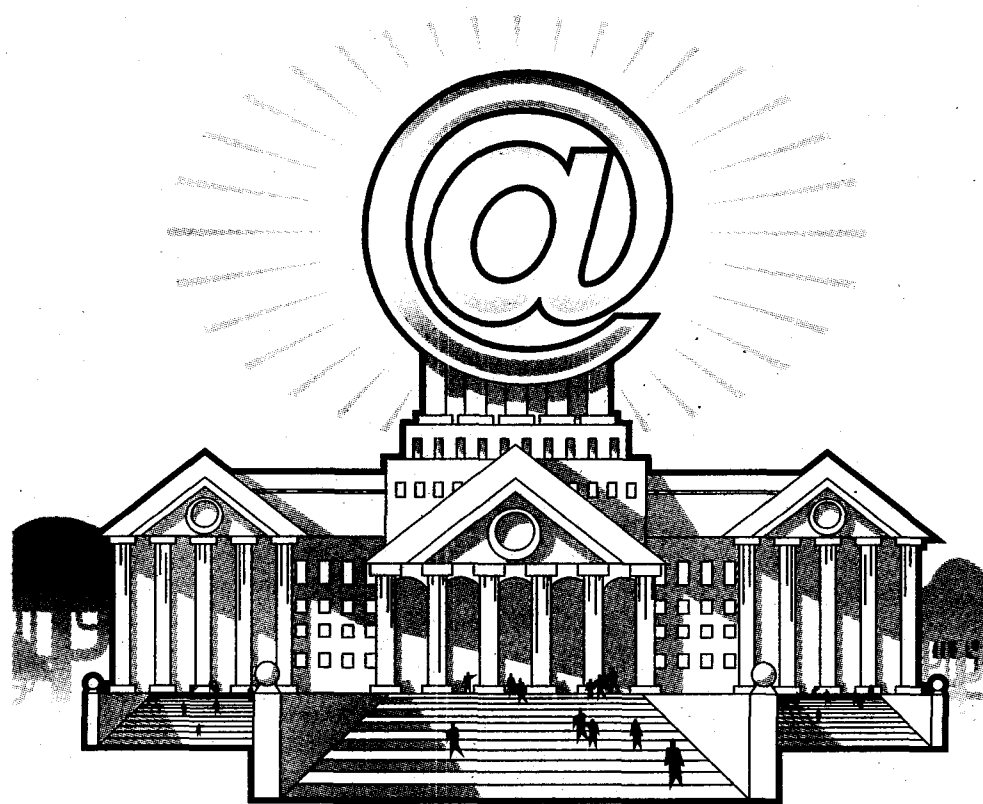
Sunstein disclaims any intention to reestablish the network monopoly, however, mainly because it is impossible (short of outright tyranny) in the age of 500-plus channels. Instead, Sunstein is more modest, calling on government to require political web sites to post links to sites with opposing points of view. Thus *freerepublic.com* would be required to make available an icon pointing to *aclu.org*. This would be government's attempt to create a public forum in which individuals encounter unexpected and unwelcome points of view.

Of course, the use of icons would be voluntary; but if not enough people used them, there might be pop-up screens directing citizens to opposing points of view or interests. And if too many people closed the pop-up screens, perhaps there could be methods of disabling the computers of those who steadfastly refuse to share common experiences? Sunstein clearly finds it more difficult to force people to be free in a democracy than in a tyranny.

Sunstein is correct in his remarkable insight that the Framers established a republic rather than a democracy. He is also correct in pointing out that the heart of this republic was deliberation. Madison spoke of the "reason of the public" as the proper foundation of government. The Congress was charged with the specific task of deliberating about the public good and the people were charged with judging the results of congressional deliberation. It is doubtful, however, that Madison expected the public to deliberate, as opposed to judging the deliberation of others.

The Internet poses a danger not so much to the deliberative republic as to liberalism. That's why the liberal love affair with the Internet seems to have been nothing more than a casual dalliance with an intern that turned sour.

Edward J. Erler is a professor of political science at California State University, San Bernardino and a senior fellow at the Claremont Institute.



Balancing Act: How We Won the Cold War

BY PATRICK J. GARRITY

In the Shadow of the Garrison State: America's Anti-Statism and Its Cold War Strategy, by Aaron L. Friedberg. Princeton University Press, 362 pages, \$21.95 (paper)

ON JANUARY 17, 1961, PRESIDENT Eisenhower delivered the following warning in his farewell address to the nation: "The conjunction of an immense military establishment and a large arms industry is new in the American experience... In the councils of government, we must guard against the unwarranted influence, whether sought or unsought, of the military-industrial complex." Eisenhower insisted that this military-industrial complex should never be allowed to "endanger our liberties or democratic processes."

For a former Supreme Allied Commander, this was a startling observation. For a native of Abilene, Kansas, it was not. Eisenhower reflected the traditional concerns of many Americans that pursuit of security abroad might lead to the creation of a "garrison state" at home. For conservatives (and for Eisenhower himself), excessive military spending and government controls for the sake of national security might reinforce the worst aspects of the administrative state. This would ultimately break the back of the American economy and undermine limited government. Liberals had a different set of concerns. Resources devoted to defense would crowd out spending for education, health care, the environment, and other human needs. For them, the threat was not too much government but rather the climate of fear generated by the Cold War, which led to McCarthyite excesses and the suppression of civil liberties.

In what is possibly the most significant study of post-World War II American defense policy since Samuel Huntington's benchmark account, *The Common Defense*, Aaron Friedberg argues persuasively that the United States did avoid the extremes feared by both the right and the left. Friedberg's work is valuable not only because of his careful analysis of the "interior dimensions" of American grand strategy during the Cold War, but because he raises questions of national security, governmental power, and individual liberty that remain with us today.

According to Friedberg, a professor of international relations at Princeton University, the American republic was born, in part, as a reaction against the trend toward ever-larger concentrations of state power and military might then taking place in Europe. The American experiment was successful for roughly 150 years largely

because of geographic isolation from the wars of Europe. This insularity ended with the Second World War. That war, and the threat of conflict with the Soviet Union from 1945 onward, produced new pressures for the creation of a powerful central state. Those pressures were met and, to a large degree counterbalanced, by strong anti-statist influences that were deeply rooted in America's founding. The power-creating mechanisms put into place during the first 15 years of the Cold War can best be understood as the product of a collision between these two sets of conflicting forces.

Friedberg considers what could have happened if political pressures to increase government power had been dominant. Without the anti-statist constraints in the early years of the Cold War, the United States might well have embraced excessive centralization; higher taxes and economic controls; a full-blown industrial policy that included central planning, expanded tariffs, subsidies, and preferences; public rather than private production of weapons; and a centralized, public role in technology development. In short, American defense and economic policy would have come increasingly to resemble that of the Soviet Union — as would American government and society.

On the other hand, had anti-statist forces completely dominated, Washington might have resumed its traditional policy of peacetime de-mobilization and minimal nuclear deterrence, thus encouraging the Soviet's aggressive and expansionist aims. Yet anti-statist constraints appear also to have contributed, in part, to the Cold War's eventual outcome. By preventing some of the worst, most stifling excesses of statism, these countervailing tendencies made it easier for the United States to preserve its economic vitality and technological dynamism. In the end, America maintained domestic support for a protracted strategic competition and stayed the course in that competition better than its supremely statist rival. Friedberg concludes that the Truman and Eisenhower administrations, and their successors, successfully struck a balance between the necessity for external strength and the desire for domestic freedom.

The success of this policy in ending the Cold War, however, suggests that more substantial American pressures on Moscow during the 1940s and '50s might have brought about the same end much earlier; and that the anti-statist pressures cited by Friedberg were actually counterproductive. Churchill, for one, had repeatedly called for Western efforts to bring about a political show-down with the Soviets. Of course, if war had occurred — and it was impossible to rule out this possibility at any

point during the Cold War — prior restraints on defense spending would have seemed parsimonious indeed.

This is much room for debate here. Perhaps it actually required decades of attrition to bring the Soviet regime to the breaking point. Friedberg indicates that the strategic approach of the United States may have arrived at a happy medium, then, by focusing on quality rather than quantity. The persistent and deeply ingrained U.S. propensity for pursuing technological advantage gave the



American defense effort a dynamism that seems over time to have imposed real and significant burdens on the Soviet Union. This relentless search for technological superiority was not pointless or dangerous as the left maintained: to the contrary, Friedberg writes, the well-intentioned efforts of Western diplomats and arms control experts to slow or stop the advance of military technology may have been misguided and counterproductive. Perhaps if they had succeeded the Cold War would still be going on.

FRIEDBERG'S JUDGMENT CONTRASTS nicely with the common wisdom in the academy, that the United States did indeed create a garrison state in its excessive and aggressive attempts to deal with the Soviet Union. For instance, Michael Hogan's influential *A Cross of Iron: Harry S. Truman and the Origins of the National Security State, 1945-1954* argues that although the outcome could have been much worse, "under the balance that they [Truman and Eisenhower] achieved, the American people had to limit federal funding for housing, education, and other social investments that had been neglected during the war. They also had to live with the intrusion of military influence into civilian affairs, with an increasingly imperial presidency, with higher taxes than most thought desirable, and with persistent budget deficits and additions to the national debt." The title of another standard account, by Richard Ned Lebow and Janice Gross Stein, captures this viewpoint perfectly: *We All Lost the Cold War*.

Even for those who believe we won the Cold War, however, the original concern remains on the table: did patriotic impulses to defend the country through a more expansive foreign policy and military strategy serve to reinforce the concentration of governmental power called for by Progressivism and the New Deal? The evidence compiled by Friedberg indicates that these were distinct political agendas. The Great Society was not necessarily related to the fiscally and strategically ambitious "flexible response" national security posture advocated by the Kennedy and Johnson administrations.

There is an even deeper dimension. Friedberg rightly notes that anti-statist influences are not always and unreservedly positive; America needs its Hamiltons as well as its Jeffersons. But statist and anti-statist elements are not only part of the American political tradition; they are deliberately incorporated — and balanced — in the constitutional structure of the regime. The Constitution provides for strong and effective powers in certain critical areas, the common defense being perhaps foremost. For the Founders, insecurity and weakness posed a greater threat to liberty than many of the aspects of what might then have been called the national security state, such as standing armies. As noted in the *Federalist Papers*, there is no certain way to limit the size and character of external threats, and thus no means *a priori* to prescribe limits to defensive measures. To do so would leave the country vulnerable to predatory powers — and actually erode republican government, if statesmen were compelled to violate the law or the constitution in order to ensure survival. To be sure, high levels of defense spending, the demands of military organizations and the like can become dangerous, but only if the entire structure of limited, constitutional government is otherwise eroded.

In any case, those who agree that the United States won the Cold War without sacrificing its promise of republican government, and that this was a good thing, can surely concur with Friedberg: "In contemporary academic discourse, anyone who seeks to explain the outcome of the Cold War in terms of unique American characteristics risks being called a 'triumphalist.' If by this term is meant someone who believes that the United States was destined inevitably to defeat the Soviet Union, or that its eventual victory was a reflection of the inherently superior intelligence of its leaders or the greater intrinsic toughness of its people, then I must reject the label. But if the term refers to someone who not only rejoices in America's Cold War success, but sees in it proof of the practical strengths as well as the moral virtues of the American regime, then I am an unrepentant triumphalist."

Patrick J. Garrity is a senior fellow of the Claremont Institute.

REVIEWS & ESSAYS

A Noble Judicial Coup?

BY RICHARD E. MORGAN

Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy, by James T. Patterson. Oxford University Press, 285 pages, \$27.50

BY THE 1950S, BREAKING THE COLOR barrier had become a moral imperative in America. Chief Justice Earl Warren's 1954 opinion in *Brown v. Board of Education*, whatever its shortcomings, provided a benchmark in constitutional law that was used to strike down not merely school segregation but the entire constitutional underpinnings of Jim Crow.

Today, scholars generally agree that the heavy lifting of desegregation came in the '60s, after the Civil Rights Act (1964), the Voting Rights Act (1965), and the Elementary and Secondary Education Act (1965) gave new enforcement weapons to the executive branch. But without the reversal of 70 years of precedent that was accomplished on the authority of *Brown*, the stage would not have been set for the later achievements of the civil rights movement.

Brown added to the momentum of civil rights in another important way as well. Arriving at the very beginning of the television era, the scattered early efforts to enforce *Brown* across the South gave rise to a series of disturbing images of composed black children facing hateful white mobs. The effect was stunning. As James T. Patterson, Ford Foundation Professor of History at Brown University, writes in his new study of *Brown*, "Most white Americans in 1950, as in the past, did not much bestir themselves to better the plight of blacks. But seeing the ugly Southern backlash against *Brown* raised national consciousness in a way that a library of written description and exhortation could never have."

Patterson's book is richly illustrated, and vividly populated with heroes and villains. But the book is subtitled, "A Civil Rights Milestone and its Troubled Legacy," and there are several distressing aspects of that legacy which receive little or no attention. Patterson artfully dances around the fact that *Brown* was handed down without any firm constitutional foundation and that Earl Warren's opinion made no effort to supply one.

The constitutional question was simple: could the Fourteenth Amendment, adopted in 1868, reasonably be understood as commanding that pupils not be assigned to public

schools based on race? Or to put the matter somewhat more generally, was it the case that the Constitution, as amended, forbade government to discriminate among persons on the basis of race in the delivery of public services? The answer of the specialized literature is overwhelmingly "no" to both. As one commentator recently put it (at the beginning of a doughty but ultimately unpersuasive effort to demonstrate the contrary) "in the fractured discipline of constitutional law, there is something very close to a consensus that *Brown* was inconsistent with the original meaning of the Fourteenth Amendment, except perhaps at an extremely high and indeterminate level of abstraction." Why does this continue to matter?

First, because legal insiders understood *Brown* at once, for what it was — a kind of noble judicial coup. However distasteful, Jim Crow by 1954 had become a major feature of the American social and legal landscape, assumed to be constitutional for the better part of a century. In effect, Chief Justice Warren claimed for the Court the ability to revise the Constitution based on a bold understanding of what the times demanded, backed up by the authority of modern social science. It was a message that inspired and mobilized an entire generation of young lawyers. If the Court could free itself from history and precedent to work this kind of change, what other marvelous reforms might it undertake?

Moreover, it was in the course of enforcing *Brown* in 1958 that a unanimous Court in *Cooper v. Aaron* advanced sweeping new claims for its own authority. The Court's decisions, it proclaimed, were to be regarded as the supreme law of the land, binding on all state officials by virtue of the supremacy clause of Article VI. To add gravity to this amazing dictum, John Marshall's opinion in *Marbury v. Madison*

was brazenly reinterpreted in order to prove that the Court's opinions were as authoritative as the Constitution itself. The scholarly community reacted with muted shock and surprise. But far from retreating from the claims made for themselves in *Cooper*, the justices since have repeatedly underscored them.

Let us be clear: what we face today is nothing less than a fundamental alteration in the nature of American governance, with unelected judges assuming control over many of our most contested policy issues. We can no longer give an account of ourselves in thorough-going republican terms, at least not with a straight face. An honest account must recognize that we have become a mixed regime, with a substantial aristocratic or pseudo-aristocratic dimension. This is part of *Brown*'s troubling legacy.

Second, *Brown* proved to be a thoroughly inadequate text for the multiple uses to which it was put. Everything was desegregated on the authority of *Brown*. In the years after 1954, the Court decided cases on the constitutionality of state-sanctioned segregation of city golf courses, swimming pools, restaurants, and public buildings. In each instance the Court's answer was the same: unconstitutional, no opinion, "see *Brown v. Board of Education*."

But, of course, if one did consult *Brown*, what one discovered was the famous holding of the case: separate but equal has no place in education. Patterson repeatedly refers to *Brown* as overruling *Plessy v. Ferguson* (the 1896 case establishing the separate-but-equal precedent). But it certainly did not do so on the basis of Warren's opinion, which appears simply to create an exception to *Plessy* in the area of education. Where was the broader principle that rendered unconstitutional all state-commanded racial segregation?

It was only in the last of the desegregation cases, *Loving v. Virginia*, which

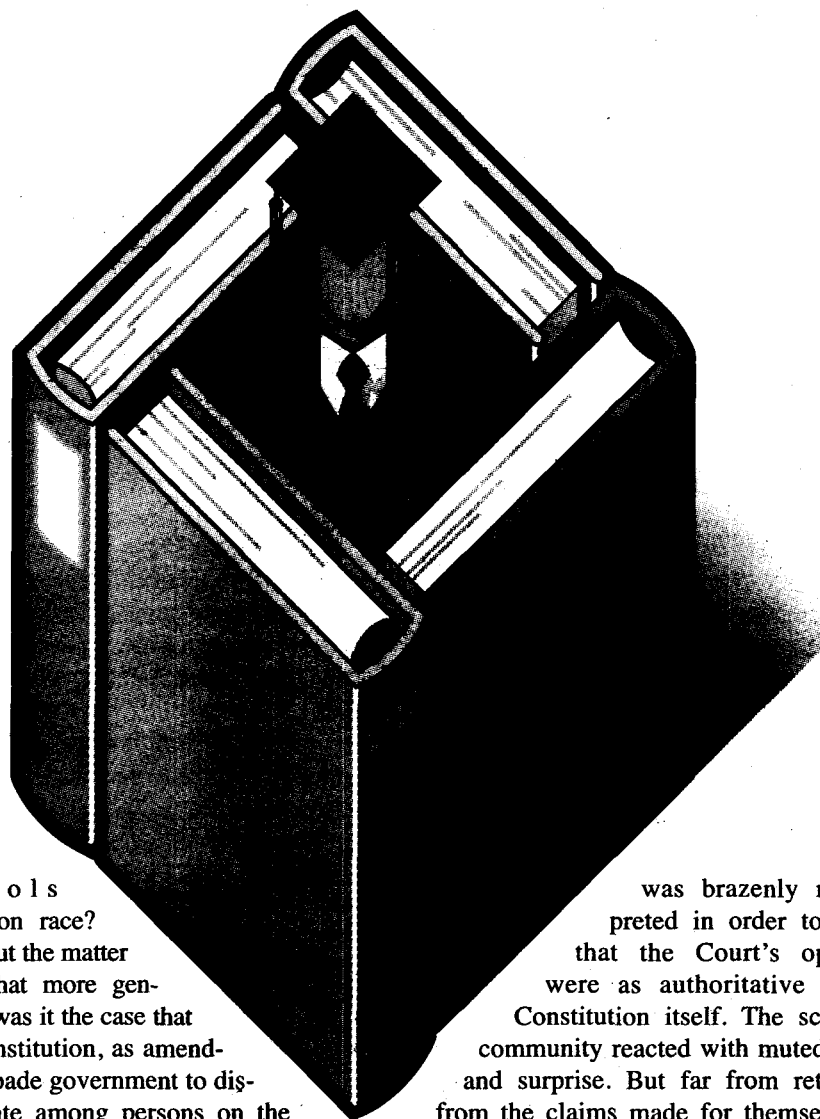
struck down that state's anti-miscegenation law in 1967, that the Court attempted to offer something more than "see *Brown*." Again, Warren wrote the opinion, sketching what remains the Court's operational test for unconstitutional racial discrimination. In this formula, as it has developed over the years, race is a "suspect classification"; any government decision taking race into account must be subject to strict judicial scrutiny. This, in turn, means that for a governmental decision based on race to survive, it must be in the service of a compelling state interest; there must be no alternative means by which that interest can be safeguarded, and the program employing racial discrimination must be narrowly tailored to secure just the necessary degree of protection for the compelling interest.

This test is an intellectual disaster. The categories (compelling interest, available alternatives, and tailoring of program) are not legal categories at all, but essentially political judgments about wise public policy. That is why the strict-scrutiny standard remains essentially mysterious. The Court will swing back and forth in cases involving racial preferences in areas such as university admissions, government contracting, and legislative districting, depending (right now) upon the vote of Sandra Day O'Connor, who alone (perhaps) understands what she means by the key terms.

SADLY, THE HISTORICAL MOMENT HAS passed. Consider how much better off we would be today with a constitutional amendment modeled on Justice John Marshall Harlan's marvelous dissent in *Plessy* which declared that, "Our Constitution is color blind, and neither knows nor tolerates classes among citizens." Such an amendment would bar government at any level from making decisions that either advantage or disadvantage persons based on race. This would finally complete the work of Reconstruction, align the text of the Constitution with our national ideals, and bury Jim Crow the way he should have been buried in the first place — by votes in legislative assemblies. By using Earl Warren's *Brown* opinion in the way it did, as the *Urtext* of American desegregation, the Supreme Court relieved Americans of the necessity (or, better, the duty) of doing unambiguously what was left undone in 1868.

Instead of a clear constitutional provision, what we have today at the heart of our race-relations law is a muddle. What's most troubling about James Patterson's book is that he is not troubled by this fact at all.

Richard E. Morgan is the William Nelson Cromwell Professor of Constitutional and International Law and Government at Bowdoin College in Maine.



Reds in the White House

BY WILLIAM P. HOAR

The Venona Secrets: Exposing Soviet Espionage and America's Traitors, by Herbert Romerstein and Eric Breindel. Regnery, 608 pages, \$29.95

WE MUST RESORT TO ALL SORTS OF stratagems, maneuvers, illegal methods, evasions, and subterfuge...to carry on Communist work," Lenin wrote in 1920.

You can't say we weren't warned. Yet Americans have hardly faced up to the amazing extent of Soviet penetration in the succeeding decades into all areas of our national life, especially their infiltration of the highest levels of U.S. government.

The Venona Secrets is one of several new books on Communist espionage written following the release, beginning in 1995, of previously classified coded cables from the 1940s between Moscow and Soviet agents in the United States. Although much of the decryption in the code-breaking effort that became known as Venona occurred before 1952, efforts at further cracking the traffic lasted until 1980. Researchers lately have compared this material with formerly top-secret records in Moscow also made available in recent years.

Liberals don't like what the Venona transcripts have confirmed: that Alger Hiss secretly received Soviet medals for his Yalta-related work as well as the thanks of military intelli-

gence in Moscow; that Whittaker Chambers and Elizabeth Bentley — the much-maligned former communists who turned against their comrades — were telling the truth; and yes, that the Rosenbergs were guilty as charged.

The Venona Secrets reviews a substantial number of these cases, ably interpreted by authors Herbert Romerstein, who was a professional member of the House Intelligence Committee and House Committee on Un-American Activities and later head of the Office to Counter Soviet Disinformation at the U.S. Information Agency, and the late Eric Breindel, the editorial page editor of the *New York Post* when he died in 1998. Unlike the authors of some of the competing academic histories, Romerstein and Breindel do not pull punches by trying to be non-judgmental — a major plus, since it really shouldn't hurt one's credibility to take a position against treason. They also surpass their competitors by going into greater detail about how the Soviet infiltrators operated.

The stakes in Cold War espionage were hardly small. Venona and other recent disclosures, as Romerstein and Breindel note, reveal that Stalin actually knew about the Manhattan Project before Harry Truman did. Soviet intelligence "was regularly reporting to the Kremlin on the top-secret British-American atom bomb project as early as 1941. Truman was not briefed on it until April 1945, shortly after he was sworn in as president."

Yet when President Roosevelt had been warned about subversives in his midst, he literally laughed it off. Still, this infiltration was no joke — as evidenced by, among others, Harry Dexter White in the

Treasury Department and Harry Hopkins at FDR's right hand.

Romerstein and Breindel devote an entire chapter to the ways that White helped set U.S. policy to benefit the Soviets. Officially the Assistant Treasury Secretary to Henry Morgenthau, White's influence made him the *de facto* secretary. It was he who authored the infamous Morgenthau Plan, essentially Stalin's scheme for the pastoralization of Germany.

The FBI had informed the Truman White House of at least 30 separate sources, including wiretap evidence, that supported the espionage case against White. But Truman tossed the proof aside and named White as executive director of the International Monetary Fund (where, as might be expected, he appointed additional Reds). *The Venona Secrets* exposes more, including details about Operation Snow, the Soviet manipulation of U.S. strategic policy by using White as an "agent of influence."

Even more than White, Harry Hopkins was assuredly a major-league agent. Author Robert Sherwood once wrote that Hopkins was "generally regarded as a sinister figure, a backstairs intriguer, an Iowan combination of Machiavelli, Svengali and Rasputin." This from a puff biographer!

Both friendly and critical biographers acknowledge that Hopkins, who lived in the personal quarters of the White House, became the most powerful man in FDR's Administration, progressing from his early role in managing national relief operations, to conducting a political purge of recalcitrant conservative Democrats, to becoming a confi-

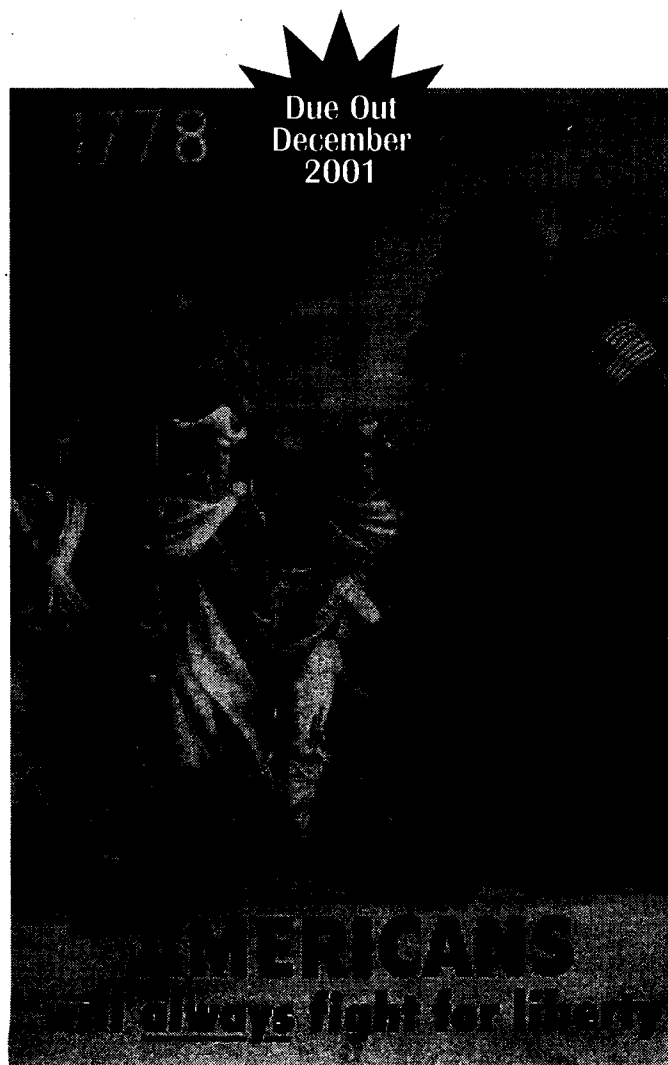
dant of Churchill's and an intermediary with Stalin. President Roosevelt once commented that "Harry and Uncle Joe got on like a house afire. They have become buddies." And why not? Hopkins even ridiculed the notion that Stalin was a Communist.

While some who have studied the Venona documents grant Hopkins generous historical wiggle room as an "unconscious" agent, Romerstein and Breindel conclude that FDR's alter ego was a Soviet spy with many comrades in the administration.

As good as *The Venona Secrets* is, one wishes the authors hadn't tried so hard not to offend "respectable" opinion. Why go so easy on Harry Truman, for example? While Truman would compare Republicans to fascists for exposing corruption in his administration, he could also gush, after meeting with the Soviet dictator at Potsdam, that, "Stalin is as near like Tom Pendergast as any man I know," comparing the mass murderer with his old mentor, the boss of the Kansas City political machine.

Despite some flaws, however, *The Venona Secrets* does paint a precise, vivid, and decidedly ugly picture of what Moscow's agents were able to accomplish within the United States. Refreshingly, the spies are not shown as misguided dissenters or confused reformers but as deliberate agents of an evil enemy. Treachery deserves no less.

William P. Hoar is an author, magazine columnist, and managing editor of *Periscope*, the U.S. Naval Institute military database.



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REVIEWS & ESSAYS

Right, Law, and Justice at the End of History

BY JAMES H. NICHOLS, JR.

Outline of a Phenomenology of Right, by Alexandre Kojève, edited by Bryan-Paul Frost, translated by Bryan-Paul Frost and Robert Howse. Rowman & Littlefield, 492 + xv pages, \$55

ALEXANDRE KOJÈVE DEEPLY INFLUENCED French intellectuals through his Paris seminar (1933-39) on Hegel's *Phenomenology of Spirit*, from which, thanks to novelist Raymond Queneau, came a book (1947). Much of that work appeared in English as *Introduction to the Reading of Hegel* in 1968, the year Kojève died. Now Kojève's biggest and most political book is ready for English readers' attention, in a painstakingly careful and accurate translation done by Bryan-Paul Frost and Robert Howse.

In calling *Outline of a Phenomenology of Right* Kojève's most "political" book, I use that term in its ordinary, broad meaning. In this book, however, Kojève himself sharply distinguishes the juridical from the political, and defends (in a somewhat Kantian manner) the autonomy of the juridical. According to Kojève's behavioral definition of right, the juridical arises when a disinterested and impartial third party intervenes to annul one person's action that obstructs another's. By contrast, he follows Carl Schmitt in understanding the political as essentially connected to the State, which rests on the fundamental distinction between friends (fellow-citizens) and (actual or potential) enemies, as well as on the internal distinction between governors and governed. The political as such lacks the disinterestedness and impartiality that the juridical requires. But full actualization of right requires that the impartial intervenor be irresistible; in practice the intervenor must be supported by the State's power (or right and law must have become the State's business). Hence the State comes to be involved with doing justice, and matters juridical intermingle with matters political. All these distinguishable but interrelated spheres of human life — political, moral, religious, juridical, aesthetic — undergo roughly parallel historical developments. Thus the detailed investigation into right, law, and justice makes this book also

Kojève's most detailed treatment of politics.

Kojève's left-wing, atheist variant of Hegelianism argues that specifically human life first emerges in the struggle for recognition, with risk of life, between potential Master and potential Slave. The resultant distinctively human activities of fighting and work propel subsequent history, culminating in the universal and homogeneous State. American readers have most likely heard of this argument from Francis Fukuyama's adaptation of it to present circumstances in *The End of History and the Last Man*.

Kojève's book, written in 1943 but published posthumously in 1980, interprets the history of law, right, and justice in the light of this Hegelian position. Aristocratic justice arose in the world of masters as a justice of equality (not between masters and slaves, but among the masters), status, identity. The justice that dominated the consciousness originally of slaves and then of the bourgeois was one of equivalence (originating from the equivalence of risk of life plus mastery to security plus slavery), exchange and contract, difference. Both conceptions are ideal types; real life in political society contains some of both, and history moves toward a final synthesis in the citizens' justice of equity (which for Kojève means the socialist conception of justice).

This translation merits high praise for its scrupulous care and precision. It is suffi-

ciently literal to give the reader confidence that Kojève's argument has been faithfully conveyed, but sufficiently well-polished to be no less readable than the French. The editor has added helpful notes to identify writings and events or to specify Kojève's references more precisely.

The translators' introductory essay provides sound guidance to basic lines of Kojève's argument. Two aspects of Kojève's treatment of right and law resonate with particular strength today. First, how different national systems can be harmonized peacefully, as they come to recognize each other's legitimacy, and thus how movement toward the universal system of law may proceed along paths other than universal conquest or world-wide revolution. Second (despite some recent roll-back of welfare state benefits) is the evolving "socialist justice of equity"; much of what welfare states aim at is prefigured in Kojève's conception.

Outline of a Phenomenology of Right is as fundamental a treatment as John Rawls's *A Theory of Justice*, and more comprehensive, in linking right, law, and justice with a full account of their historical development. To this reader, Kojève's book is by far the more rigorously argued, profound, and challenging.

James H. Nichols, Jr. is a professor of government at Claremont McKenna College.

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Unworthy Lives and Unalienable Rights

BY TIMOTHY WHEELER

The Culture of Death: The Assault on Medical Ethics in America, by Wesley J. Smith. Encounter Books, 285 pages, \$23.95

"The long habit of living indisposeth us for dying."

—Thomas Browne, *Hydriotaphia* (Urn Burial, 1658)

MY MEDICAL SCHOOL WAS AMONG several that abandoned the practice of new graduates taking the Hippocratic Oath. The times were ripe for the rejection, coming on the heels of the 1960s cultural rebellion and then *Roe v. Wade*. But even though the famous oath still informs medical practice, cultural and political changes steadily erode its influence.

Chief among these changes is the ascendance of biomedical ethics, according to attorney and activist Wesley J. Smith. The author dedicates his book to Ralph Nader,

with whom he has collaborated on four books. But in his dedication to safeguarding the disabled and dying, Smith eschews his mentor's famously quick reliance on government coercion to achieve social good. Instead, Smith makes a plea for the honoring of individual rights — natural rights — in convoluted decisions regarding life, death, and the growing gray area between them.

Because of technology, life and death themselves are subject to increasingly malleable interpretations. Much of the Bush Administration's struggle over federal funding of embryonic stem cell research simply reflects the profound ambiguity of those concepts. Smith addresses the whole formidable array of contemporary medicine's ethical quandaries — stem cell research, animal experimentation, organ donation, and more — with a great respect for human life. This refreshing view appears to be losing favor among the secular priests of bioethics, who offer sterile utilitarian answers to the big questions.

Redefining life for political purposes began long before the stem cell debate. Lest we forget, Smith charts the rise of the eugenics movement in the 19th and early 20th centuries. In this pre-Holocaust era, the idea of using science to create better human specimens appealed to such luminaries as Theodore Roosevelt, George Bernard Shaw, and Margaret Sanger. Eugenics as social theory evolved into social policy in the United States. Smith reports, "...in 1907 Indiana became the first state to pass a eugenics-based steril-

ization law. By 1912, eight states had sterilization laws. Eventually nearly thirty states followed suit, including Virginia."

The most perverse application of eugenics and its Darwinian ethic materialized in Germany. It began in earnest with the book *Permission to Destroy Life Unworthy of Life* (*Die Freigabe der Vernichtung lebensunwerten Leben*), published in 1920 and authored by law professor Karl Binding and physician Alfred Hoche. They called for triage of the disabled into three groups — "incurable idiots," comatose patients, and the terminally ill or mortally wounded. Under prescribed conditions doctors would have been allowed legally to kill such people. The notion of culling "useless eaters" from the population garnered wide public support before it was withdrawn because of opposition from the German clergy.

But the seeds had been sown, and as Smith points out, "...mandatory sterilization laws were officially enacted within six months of Hitler's becoming chancellor of Germany."

The bioethics movement arising in the second half of the 20th century revived the notion of "life unworthy of life" in futile-care theory. "Futile care" is a term of art now firmly entrenched in the argot of every hospital medical ethics committee. It refers to medications, operations, and invasive procedures that have little or no chance of restoring a decent life to gravely ill or injured patients.

The sobering reality is that a natural conflict arises between these patients and

those charged with their support, both the caregivers and the payers for that care. Physicians and nurses frequently must go through the motions of laboring to save an unsavable patient. Those motions typically involve subjecting the patient, whose welfare is the doctors' and nurses' sworn priority, to needless pain and fear through surgery, insertion of central venous lines, and defibrillation of the heart by application of direct current to the chest. None of these interventions is without risk, and the balancing of risks and benefits is a constant task in managing the crises of such a patient.

ANOTHER UNRELENTING TRUTH IS THE enormous expense of maintaining life toward its end, whether that end comes by advancing years or by catastrophic illness or injury. As our ability to prolong life has become matched only by the expense, medical ethicists have begun to consider that expense in the calculus of benefits and burdens. In this case, the burden is borne by hospitals, which are ultimately businesses, and by employers, who were enticed into the devil's bargain of providing tax-favored health insurance for their workers after World War II. Now, the burden will fall increasingly on taxpayers, as we move slowly but inevitably toward publicly funded health care.

Smith rightly warns of the danger these pressures pose to elderly or terminal patients, who are seen by some as having a

SEE DEATH ON PAGE 23

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THE AGE OF

The Age of Reagan: The Fall of the Old Liberal Order, 1964-1980, by Steven F. Hayward. Prima Publishing, xxxviii + 848 pages.; \$35

Ronald Reagan and the Politics of Freedom, by Andrew E. Busch. Rowman & Littlefield, xxx + 295 pages, \$80 (cloth), \$27.95 (paper)

Reagan, In His Own Hand, eds. Kiron K. Skinner, Annelise Anderson, and Martin Anderson. The Free Press, xxiii + 549 pages, \$30

TELL YOUR LIBERAL FRIENDS, without cracking a smile, if you can: The end is near. Not the end of history, but the end of liberal history, the kind of history written by liberals, for liberals, and usually about liberals; the kind of history that shaped the consciousness of Bill Clinton and Al Gore. A new generation of conservative scholars is coming on the scene and their writings are already beginning to alter our understanding of the 20th century.

Left-leaning scholars like Arthur Schlesinger, Jr., Garry Wills, and Doris Kearns Goodwin will not disappear or simply be forgotten, of course, but their near-monopoly is being broken. In Schlesinger's books, especially in his monumental (and still unfinished) *The Age of Roosevelt*, he expounds the canonical themes of the Left's interpretation. In the 19th century, American democracy was tempted by slavery; and the crisis over slavery, the "crisis of the House divided," was the defining event of the century. In the 20th century, America's temptor was privilege or plutocracy, which threatened to subvert democracy through the promises of an ill-gotten prosperity. Although democracy had vanquished both Tories and slaveholders, it now faced the less

Three New Books Make the Case for Ronald Reagan's Enduring Legacy. But Has Reagan Replaced FDR as the Dominant Force in American Politics? By Charles R. Kesler

overt challenge of "economic royalists" who imperilled the economic equality necessary for democracy. The characteristic crisis of the 20th century, therefore, was the crisis of capitalism, epitomized in the Great Depression, and the hero who vanquished "the privileged princes of these new economic dynasties" was Franklin Delano Roosevelt, who freed democracy from the chains of limited government, enabling it to subdue capitalism in the New Deal's regulatory and welfare state. This self-satisfied picture is about to change, however, because conservatives have now begun to tell their own story and to provide a fresh, candid reinterpretation of the course of modern American politics.

Steven F. Hayward's *The Age of Reagan* is a magnificent new history of our times. It is a big book in every way and yet it reads quickly and delightfully. Hayward received his Ph.D. in History in 1996 from the Claremont Graduate University, where he studied with Leonard Levy, John Niven, and Harry V. Jaffa, among others. He is now a senior fellow and director of the Center for Environmental and Regulatory Reform at the Pacific Research Institute, the distinguished free-market think tank in San Francisco. It's hard to think of anyone who would bring a better set of skills to this task than Hayward, who combines a broad knowledge of 20th century history and historiography with a ready appreciation of modern economics, particularly the key breakthroughs in monetarism, supply-side theory, and public choice. He understands firsthand the ins-and-outs of mod-

ern regulatory politics, and his previous book is *Churchill on Leadership*, so he knows statesmanship when he sees it. Withal, he is fair to those he criticizes, rarely suppressing an argument or fact that might tell in their favor. Throughout *The Age of Reagan*, he appeals to Daniel Patrick Moynihan and, to a lesser extent, Murray Kempton, as witnesses who saw and said invaluable things about the resurgence of conservatism and the parlous condition of their beloved liberalism.

Above all, Hayward is a gifted writer who presents us with a vigorous historical narrative. For all its defense of traditional history, the Right cannot boast of many narrative historians, which is one reason that liberal chroniclers dominate the bookstore shelves. Hayward may have learned from the examples of John Lukacs and Paul Johnson, probably the best living conservative narrativists, but Hayward has a better command of political ideas than either and is much less error-prone than Johnson. (Hayward's prose succumbs to the occasional infelicity, however.) Having read quite a bit of Churchill, Hayward might be expected to have adopted something of the great man's heroic approach, but though Reagan is at the center of this book it is not told consistently from his point of view. Perhaps William Manchester's volumes on Churchill come closest to providing a model for Hayward's account.

At any rate, *The Age of Reagan* is not a biography but a history, an emphatically (though not exclusively) political history

of the last third of the past century. Modeled on Schlesinger's *The Age of Roosevelt*, Hayward's book (the first of two proposed volumes) bears the subtitle, "The Fall of the Old Liberal Order," his wry salute to the subtitle of Schlesinger's first volume, "The Crisis of the Old Order." For Schlesinger, the old order was the regime of limited government and unlimited capitalism that he thought





Roosevelt had replaced; the old order, in short, was conservatism, the conservatism of the Fathers and the post-bellum Republicans and Calvin Coolidge. For Hayward, at century's end, the old order is liberalism, the novel purposes and institutions of government ushered in by FDR and brought to new peaks of arrogance and zeal in the Great Society. Accordingly, *The Age of Reagan* begins in 1964, at liberal-

ism's supreme moment of triumph and modern conservatism's nadir, when Lyndon Johnson had crushed Barry Goldwater in the presidential election; when the Great Society was aborning.

His focus and starting point allow Hayward to sidestep the problem that proved fatal to *Dutch*, Edmund Morris's official biography of Reagan. (One wag suggested that the book should have been

titled *Botch*.) The problem is trying to find the real, i.e., inner Reagan. "While Reagan can be described," Hayward admits, "he is nearly impossible to explain." Hayward concludes, sensibly, that the real Reagan is the Reagan we know, or more precisely, he's the Reagan we can know if we apply ourselves to the close study of his words and deeds. *The Age of Reagan* thus concentrates on the "outside story" of American politics and of Reagan's life. "Above all, he was a serious man," Hayward notes. Reagan ran for President four times, counting his abortive but revealing bid in 1968, and came very close to unseating the incumbent President of his own party in 1976's G.O.P. primaries. Reagan was no lucky simpleton or bumbling amateur; he was one of the century's most ambitious men. "Cunning," Hayward rightly calls him. Rehearsing for his debate with Jimmy Carter in 1980, Reagan resisted his advisors' efforts to get him to memorize briefing material. (Carter's briefing book, Hayward reports, was a thousand pages long. Reagan's was 71 pages.) During the mock debate, he said to his team, "I was about to say, 'There you go again.' I may save it for the debate."

The editors of *Reagan, In His Own Hand*, the superb collection of radio talks that Reagan composed during his wilderness years of 1975-79, collect the testimony of many eyewitnesses who affirm that he was "constantly writing," in airplanes, in cars, in hotels, at home. He was also reading, especially *National Review* (he was a charter subscriber), *Commentary*, and other journals of public opinion. He would appoint Jeane Kirkpatrick, for example, and many other scholars to his Administration on the basis of articles by them that he had read. And still, the Left and many on the Right persisted in underestimating his mind and political savvy. Reagan played to their weakness, as Hayward explains. "No one in Establishment politics could quite believe Reagan when he repeatedly said in various forms, 'I say there are simple answers to many of our problems — simple but hard.' 'It's the complicated answer that's easy,' Reagan liked to say, 'because it avoids facing the hard moral issues.'"

Hayward is the first to put Reagan's defense of "simple answers" into a larger moral and political framework, showing why Reagan so offended the liberal sensibility. "The premise of the administrative state is that our public problems are complicated," Hayward writes, "with 'no easy answers,' whose remedy requires sophisticated legislation and extensive bureaucratic management." But "the creed of the administrative state makes the idea of citizen self-government seem quaint or obsolete," and so Reagan tried constantly to remind Americans that the alternative to self-government on the basis of common sense and general moral principles was the divine right of kings, even if those kings

were now called experts.

The Age of Reagan is very good on many levels. Hayward is capable of fine set-pieces, painting the general scene of the mid-60s or early 1970s. He appreciates the inside baseball of political campaigns, without forgetting the larger issues in play. He has a marvelous eye for the pretensions of social scientists, who figured largely in the twin disasters of Vietnam and the Great Society. Indeed, one of the book's strengths is his vindication of the conservative insight that the same kind of hubris lay behind both the War on Poverty and the Whiz Kids' conduct of the Vietnam War. Sargent Shriver, in charge of the War on Poverty, predicted in 1966 that poverty would be wiped out in ten years. An assistant secretary of defense, at about the same time, beamed that "the new knowledge can literally solve any problem." What Hayward calls the "active expert management" of the Pentagon's civilian experts, fresh from Harvard Business School, led to the fiasco of graduated response, and he recounts in infuriating detail the heartless and mindless war leadership of Johnson and Defense Secretary McNamara. The apostles of arms control, another social science fad, come in for the same withering scrutiny. Nor does Hayward spare the amoral "realists" in the Nixon and Ford Administrations, chief among them Henry Kissinger. Though he rightly objects to Kissinger's "de-moralization" of American foreign policy, Hayward seems to have no place left for Reagan except on the side of the foreign-policy "idealists," surely an odd set of bedfellows for the perceptive critic of Carter's naïve human-rights policies.

The Age of Reagan is at its best when Hayward fixes his gaze on the battle of political ideas that raged during the long liberal crack-up. He limns the differences between what he calls "reform liberalism" and "radical leftism." The former were the mainstream liberals of the New Deal and Great Society, the latter the "kooks and sociologists" (LBJ's term) of the New Left who despised the liberals as capitalist dupes and running dogs. Hayward pays close attention to the parallel developments within the civil rights movement, especially the emergence of Black Power. Above all, he shows why mainstream liberalism crumbled so easily under these assaults, having cut itself off from mainstream political opinion as the result of its own relentless commitment to bureaucracy, expertness, and moral progressivism.

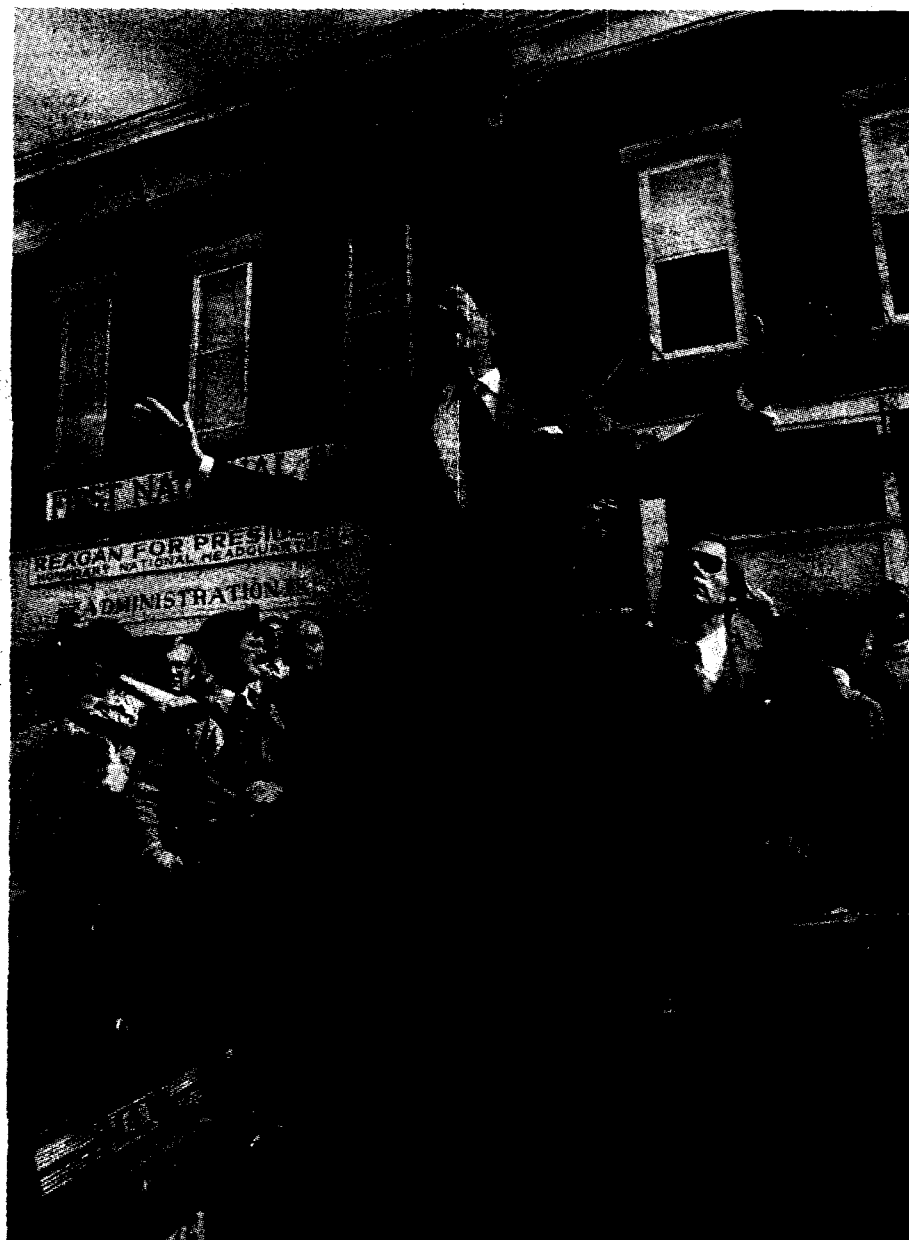
The Age of Reagan is meant to answer and supplant Schlesinger's *The Age of Roosevelt*. In fact, the context suggests that Hayward regards Reagan as the greater figure and perhaps, in time, as the more influential President. But again, the book's tight focus on the events of 1964-1980 allows Hayward to sidestep direct comparisons between

SEE REAGAN ON PAGE 24

IT WAS NOT CLEAR THAT THE CONSERVATIVE surge that propelled Barry Goldwater to the nomination would yet mature into the dominant force within the Republican Party. It was obvious that California would be a key battleground in 1966. Democratic Governor Pat Brown, dubbed "the giant killer" for his victories over Nixon in 1962 and Goodwin Knight in 1958, was expected to run for a third term. On the Republican side it was thought perhaps liberal Senator Thomas Kuchel might run. Kuchel earned the wrath of conservatives for publicly refusing to endorse or support Goldwater's candidacy, even after the Republican convention. Ronald Reagan had Kuchel in mind when, a week after the election, he told Los Angeles County Young Republicans that, "We don't intend to turn the Republican Party over to the traitors in the battle just ended. We will have no more of those candidates who are pledged to the same goals of our opposition and who seek our support. Turning the party over to the so-called moderates wouldn't make any sense at all." But would Reagan himself be the alternative?

There are competing accounts of when and how Reagan arrived at the decision to run for governor. Biographer Anne Edwards claims that right after the 1964 election, Reagan actually contemplated running straightaway for president in 1968, and had to be persuaded that his chances for the brass ring would be better if he was elected governor first. Most Reaganites discount this, and it seems out of character with Reagan's persistent modesty and realism. Biographer Lee Edwards (no relation to Anne Edwards) says that when Sy Rubel, the chairman of Union Oil Company, first asked Reagan to run for governor in February 1965, Reagan initially said no. But he yielded to the entreaties of Rubel, Henry Salvatori, Holmes Tuttle, and others who would later compose his "kitchen cabinet" to keep an open mind. In April, Reagan held the first of three decisive meetings with Stuart Spencer and Bill Roberts, whose political consulting firm, Spencer-Roberts, was regarded as the best Republican campaign firm in the west. Spencer-Roberts was the epitome of the political "hired gun." They had run campaigns for conservatives, but had also run Rockefeller's losing 1964 California primary campaign against Goldwater, and Kuchel's 1962 senatorial campaign. Evans and Novak described the first meeting: "The two political managers made clear that an 'ultraconservative' campaign would not win in California and that they were not interested in joining another Goldwater debacle. Neither was he, rejoined Reagan."

Reagan's political instincts and shrewdness were evident in these early meetings, and belie the persistent claim that he was a political naif. Reagan understood that with a Democratic voting edge of three-to-two



EXCLUSIVE EXCERPT: 'Here We Are On The Late Show Again'

**How Ronald Reagan Defied
Expectations And Beat 'Giant Killer'
Pat Brown By Steven F. Hayward**

in California, a Republican could only win by appealing to crossover voters. This required a united Republican Party more than a centrist campaign. A unified Republican Party would be his primary strategy as well as a condition of running. Rather than declaring his candidacy straightaway, Reagan decided to travel the state to showcase his strongest political asset—his speaking ability—as a means of building support. He chose to give short speeches followed by questions and answers with the audience. This helped dispel the view that he was "merely an actor" reciting lines.

It worked. Journalist Jack Roberts reflected: "It was apparent to those of us

who really had spent some time covering the guy on the campaign trail that he was not dumb. Really the thing that drove that home was the Q-and-A. He would throw back sensible answers—not just at press conferences, but to audiences." Reagan not only got the jump on other potential Republican candidates; his early informal campaigning allowed him to concentrate on issues rather than having to attack party rivals. It also gave him an interval of time to begin learning about California state government, about which, by his own admission, he knew little. During his years speaking for General Electric, Reagan explained, he had spent so much time researching "the overall philosophy,

national and international policy, that I did not know anything about the organization of state government.... I had just a citizen's resentment of certain things that had happened."

"At the end of that period [of the speaking tour]," Stuart Spencer recalled, "we realized this guy was for real." It has been a constant refrain since his first campaign that Reagan is the creation of his handlers, and more than a few political operatives have sought to claim the mantle of being the "brains" behind Reagan. Spencer is notably not among them. "That kingmaker stuff is a lot of bull," Spencer said at the time. "In politics you don't change a guy's image and get anywhere. If you try to put words in his mouth, people see right through him."

In September, by which time Reagan had traveled 10,000 miles (mostly by car because Reagan disliked flying) and delivered 150 speeches, he decided to enter the race. Reagan formally announced his candidacy in a statewide televised address on January 4, 1966. In his announcement speech and early press comments, Reagan articulated several themes that became staples of his entire subsequent career. He explained his move to conservative Republicanism as a lament for the apostasy of the leadership of Democratic Party: "I have often said that I think that there was as much the Democratic Party leaving me, or the leadership of that party leaving me, as my leaving the party." In his campaign speeches, he showed his skill at explaining the essence of complicated issues with user-friendly illustrations. The state budget of \$4.6 billion was an incomprehensible figure to ordinary people, he noted. But think of it in terms of a stack of dollar bills; a four-inch stack of \$1,000 bills would be a million dollars. A stack of \$1,000 bills would reach 1,500 feet in the air to equal the state budget. Reagan also honed his skill at the telling epigram: "You have to live in California for five years to be governor, but you can get on welfare in 24 hours." He would also show his penchant for offering a positive alternative to the liberalism he attacked with such zest. In place of the Great Society, Reagan would move us toward the "Creative Society" that harnesses the power of the people to solve problems themselves.

REAGAN WOULD NOT GET THE NOMINATION without a contest, however. Senator Kuchel decided shortly after the Watts riot not to run (but in his non-candidacy announcement he attacked conservatives as "a fanatical, neo-fascist political cult, overcome by a strange mixture of corrosive hatred and sickening fear"), but two-term San Francisco Mayor George Christopher, a moderate, would. Christopher, a wealthy dairy farmer, was a bland character — David Broder and Stephen Hess wrote that Christopher "looked and sounded like a tired TV

wrestler." Early polls showed Reagan beating Christopher among Republicans, but that Christopher would run more strongly against Brown. "I had heard of Ronald Reagan, of course," Christopher later said, "but I believed what so many people were saying, that 'an actor' couldn't win the Republican primary over a businessman-politician."

Party moderates who had backed Rockefeller against Goldwater in 1964 spoke up in favor of Christopher (who had been the northern California campaign chairman for Rockefeller in 1964). One of them was a State Assemblyman named Caspar Weinberger, who told the *New York Times* that "Christopher will do much better than Rockefeller did. Reagan will get the great bulk of the Goldwater support but it does not represent much more than one-third of the party." Striving to avoid the kind of divisiveness that helped to ruin Goldwater's candidacy, it was during this period that the chairman of the California Republican Party, Gaylord Parkinson, enunciated what became known as the 11th Commandment — "Thou shalt not speak ill of a fellow Republican," a phrase which later became attributed to Reagan. Reagan and Christopher held to this maxim to a remarkable extent in the campaign that followed.

As the June primary approached, Reagan's early lead over Christopher dwindled — from 17 points in the fall of 1965 to 13 percent in January, to nine percent in March, and just six percent in May. Then the Democrats blundered. The Brown campaign was ecstatic at the prospect of running against Reagan. They would simply dust off the trash-Goldwater playbook. "We thought the notion was absurd and rubbed our hands in gleeful anticipation of beating this politically inexperienced, right-wing extremist and aging actor," Governor Brown reminisced later. Brown's confidence in a run against Reagan led him to work surreptitiously to help Reagan win the Republican primary. Democrats leaked damaging information about Christopher to the media, and in mid-May a story by *Washington Post* columnist Drew Pearson about 20-year-old milk price-control violations by Christopher damaged his campaign. Reagan won the Republican primary by a landslide margin of 65 to 31 percent. Christopher was at first hesitant about endorsing Reagan for the fall campaign, but Reagan took an immediate step that he would repeat in his successful run for the White House in 1980: he hired several of Christopher's key campaign staff, sending the signal that he was serious about uniting the party, and that his party opponents would be welcome in his government.

While Reagan had to overcome intra-party opposition and prove that he could be a consistent campaigner, Brown was not without problems of his own. Los Angeles



Mayor Sam Yorty, still angered by Brown's handling of the Watts riot the year before (another riot in Watts in March 1966, while Brown was again out of the country, added fuel to Yorty's ire), entered the Democratic primary contest against Brown. (Yorty, incidentally, shared Brown's view of Reagan: "I always felt that Reagan was the only candidate Brown could possibly beat." A decade later, Yorty switched parties and became a Reagan supporter.) The fissures among Democrats over the Vietnam War were starting to widen, and began to take their toll on Brown, who as a loyal Democrat defended President Johnson's war policy. Assailed from both the Left and the Right, Brown fared poorly in the Democratic primary. Yorty captured nearly a million votes. Democrats knew they were in deep trouble. "It's going to be a long, hot summer," Brown remarked on primary election night.

ALTHOUGH EARLY PRIMARY POLLS suggested the race would be close, Brown's efforts to tag Reagan as "the crown prince of the radical right" sputtered from the start and never achieved any traction, in part because Brown never did perceive how vastly different Reagan was from Goldwater. "Like Barry Goldwater," Brown would say after

Reagan's June primary victory, "he is the spokesman for a harsh philosophy of doom and darkness." But Reagan's positive rhetoric and genial nature were in sharp contrast to Goldwater's angry and defiant visage. Even when Reagan attacked the same targets as Goldwater, he did so with a light and humorous touch. Reagan quipped, for example, that student radicals "act like Tarzan, look like Jane, and smell like Cheetah." (Polls had shown that student turmoil on campus was highly unpopular with voters.) Keeping up with Brown's promises, Reagan joked, "is like trying to read Playboy magazine while your wife turns the pages."

Brown and the Democrats made several attempts to tie Reagan to the John Birch Society. The California Democratic Party produced a 13-page report entitled "Ronald Reagan Extremist Collaborator: An Exposé." "Ronald Reagan is an extremist's candidate for Governor of California," the paper said. "He is the extremist's collaborator in California. He endorses their projects, promotes their policies, takes their money. He is their 'front man.' Meanwhile, he pretends to be a moderate, middle-of-the-roader. The record belies him. It shows that he has collaborated directly with a score of top leaders of the super-secret John Birch

Society." Reagan regarded the leadership of the John Birch Society as kooky, and understood that the Society was a political liability with the moderates whose votes he had to attract. He had pointedly criticized some of the Society's frothier pronouncements (such as the allegation that President Eisenhower belonged to the Communist conspiracy). His campaign took care to keep out John Birch Society adherents, whose presence in campaign posts could be exploited by the media and the Democrats. Yet Reagan didn't wish to alienate the block of voters who sympathized with the Bircher's fervent anti-Communism. This dilemma, which had plagued Nixon and other Republican politicians over the previous decade, became yet another opportunity for Reagan. Reagan began disclaiming "labels" of all kinds, and disavowed support from "any blocs or groups." About the John Birch Society specifically, Reagan said that he would welcome the support of their members, but that such support was evidence that he had "persuaded them to accept my philosophy, not me accepting theirs."

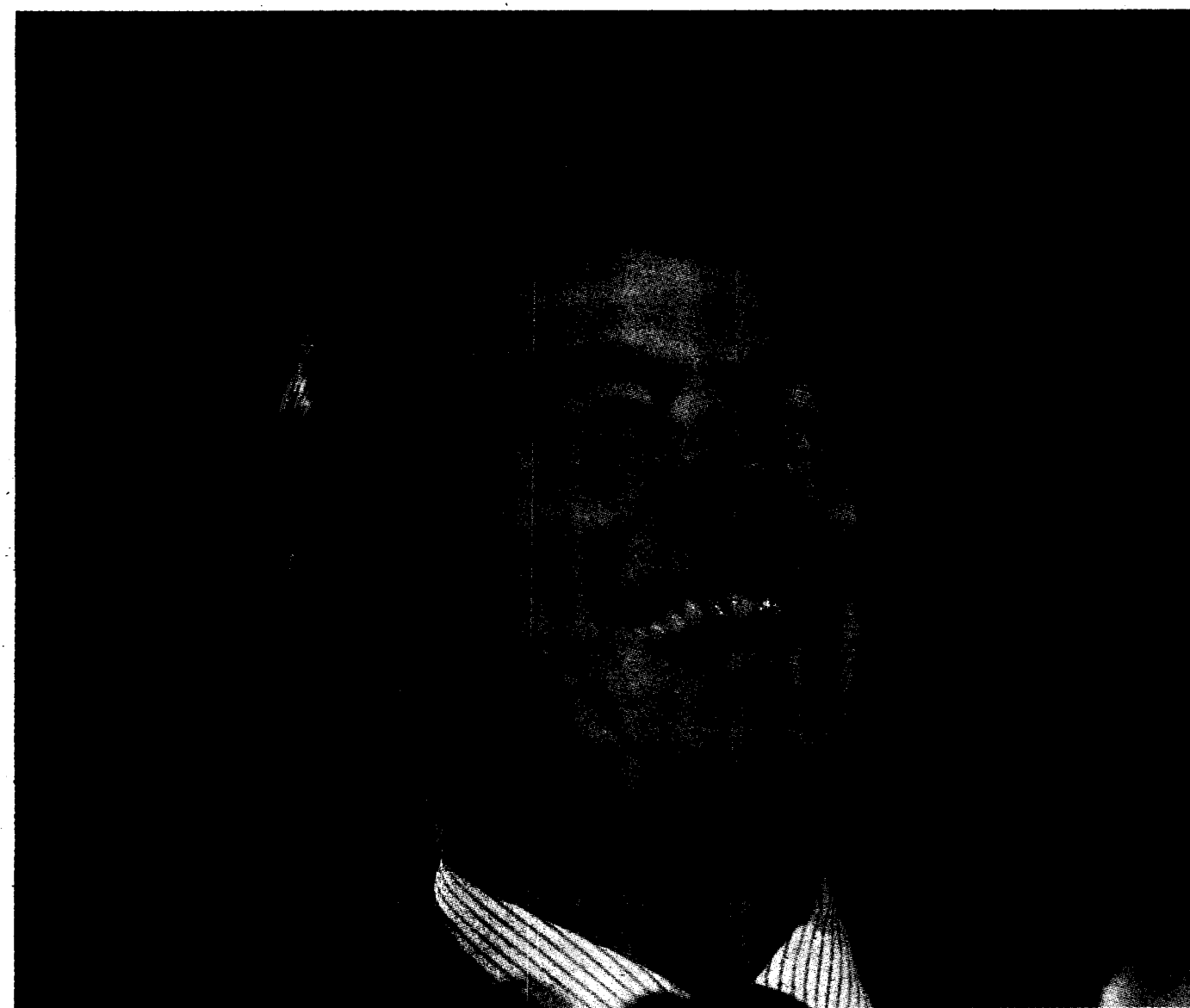
Reagan's sincerity made this demurral effective. Brown's attacks on Reagan began to backfire, especially a TV ad with Brown reminding schoolchildren that

Reagan was an actor, and that it was an actor who had shot Lincoln. Reagan even began quoting Brown's statements in his own speeches. Brown had said that conservatives are "the shock troops of bigotry, echoes of Nazi Germany, echoes of another hate binge that began more than 30 years ago in a Munich beer hall." Reagan calmly parried: "Extreme phraseology from one who professes to deplore extremism." To charges that he was an agent of "white backlash," Reagan replied: "I'm the agent of a Brown backlash."

As Republicans united behind Reagan — Eisenhower and Nixon both made public appearances for him — Democrats squabbled. Two of Brown's top aides ended up in fisticuffs over a campaign disagreement. The New Left began saying openly that a Brown defeat would strengthen the Left. The *New York Times*, in a rare editorial endorsement for a California election, deplored Reagan and hoped that California voters would "understand where reality ends and fantasy begins."

REAGAN WON THE NOVEMBER ELECTION in a landslide, by a margin of nearly one million votes. He carried all but five of California's 58 counties. Not since Earl Warren in 1950 had a Republican run so strongly. A large number of the Democratic voters who had gone with Yorty in the primary had crossed over for Reagan, including as much as 30 percent of labor union members. He did especially well in several working-class communities with heavy Democratic registration, prefiguring how he would draw votes in his presidential runs in the 1980s. Republicans did well down the ticket as well, gaining five State Senate seats, five State Assembly seats, and three seats in Congress. Reagan's big win was the crest of a nationwide Republican tidal wave. Nationally Republicans gained 47 House seats (Nixon, stumping for the GOP around the country, had predicted Republicans would gain 46 House seats), three Senate seats, eight governorships, and 677 state legislative seats. Among the GOP winners was George Bush, who won a congressional seat in Houston. It would be the Republicans' best showing until 1980.

Reagan was sworn in as governor of California at three minutes after midnight on January 3, 1967. His inaugural address, delivered the next day, contained the delicate mixture of the two halves of Reagan's political persona — hard foreboding and cheerful optimism — that gave him his broad appeal. "Freedom is a fragile thing and never more than one generation away from extinction," he began. "Knowing this," he continued a little later, "it is hard to explain those who question the people's capacity for self-rule. Will they answer this: if no one among us is capable of governing himself, then who among us has the capacity to govern someone else?" This argument derived directly from Thomas



Jefferson and Abraham Lincoln, making Reagan atypical; no one on the political scene talked this way anymore.

From this general, historical beginning, Reagan zeroed in on the specific challenges of the moment, especially the welfare state and high taxes. "As presently constituted, welfare's great flaw and weakness is that it perpetuates poverty for the recipients of poverty, institutionalizes their poverty into a kind of permanent degradation. . . There is no humanity or charity in destroying self-reliance, dignity, and self-respect — the very substance of moral fibre." Most fundamentally, Reagan utterly rejected the premise of the progressive administrative state that the progress of society and government depended upon specialized expertise. "For many years now, you and I have been shushed like children and told there are no simple answers to complex problems which are beyond our comprehension. Well, the truth is, there are simple answers — but there are no easy ones. The time has come for us to decide whether collectively we can afford everything and anything we think of just because we think of it." In a subsequent speech in mid-1967, Reagan expressed the point even more directly: "I think we have had enough of nineteenth-century rule of the many by the few, even if the few are supposed to be some kind of intellectual elite, who are more gifted than the rest of us." This theme, more than any of his views on spe-

cific issues, constituted the chief source of liberal contempt for Reagan.

Reagan seldom ended a speech on sour notes of discontent, and this time was no different. He closed with his typical forward-looking optimism, this time with reference to his "Creative Society," clearly intended to be his alternative to the Great Society. "Some who are inclined to resent any dilutions of government's influence continue to charge that people like ourselves are turning back the clock. The Creative Society is not a retreat into the past. It is taking the dream that gave birth to this nation and updating it, making it practical for the 20th century. It is a good dream. It is a dream that is worthy of your generation."

There was a final touch to the speech that would become a Reagan signature: the tribute to an American hero. "If, in glancing aloft, some of you were puzzled by the small size of our state flag—there is an explanation. That flag was carried into battle in Vietnam by young men of California. Many will not be coming home. One did, Sergeant Robert Howell, grievously wounded. He brought that flag back. I thought we would be proud to have it fly over the Capitol today. It might even serve to put our problems in better perspective. It might remind us of the need to give our sons and daughters a cause to believe in and banners to follow."

The structure and substance of the speech came to be known as "vintage Reagan," and would be the model for his first Presidential Inaugural Address 14 years later (as well as nearly every major speech Reagan gave). Not many citizens of California would have heard this address had he given it at his midnight swearing-in ceremony. Reagan ostensibly picked this odd hour to be sworn in to prevent Brown from appointing any more judges (Brown appointed nearly 80 during his lame duck period after the election — Reagan joked that "I am probably the only governor in the United States who can't fix a parking ticket") or granting any more pardons, but it has long been reported that the time was picked at the insistence of Nancy Reagan, whose penchant for astrology would provoke controversy 20 years later. Regardless, it provided Reagan with yet another opportunity to display his light touch. After the ceremony, Reagan turned to Senator George Murphy, like Reagan a former movie actor, and quipped: "Well, George, here we are on the late show again."

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REVIEWS & ESSAYS

Pride and Political Philosophy

BY MICHAEL ZUCKERT

Educating the Prince: Essays in Honor of Harvey Mansfield, edited by Mark Blitz and William Kristol. Rowman & Littlefield, 352 pages, \$50

Friends and Citizens: Essays in Honor of Wilson Carey McWilliams, edited by Nancy L. Schwartz, Peter Dennis Bathory, and Wilson Carey McWilliams. Rowman & Littlefield, 304 pages, \$50

OF TEN THERE IS LITTLE UNITY OR CONNECTION among the essays collected in a *Festschrift*, other than the link of respect or affection the authors have, whether as friends, students, admirers, or colleagues, for the distinguished person in whose honor the volume appears. *Educating the Prince* covers an amazing range of topics — from a detailed analysis of a single chapter in Machiavelli's *Prince* to an essay on Shakespeare's *Henry V*. There are also essays on classic works of the American tradition,

even an analysis of the Telecommunications Act of 1996, as well as chapters on Hobbes, Rousseau and Kant, the common law, international law, religion, and bureaucracy. *Friends and Citizens* contains fewer essays (also generally somewhat longer ones), but again a great range — from a challenging interpretation of the opening chapters of Genesis, to essays on parties, Abraham Lincoln, friendship, citizenship, and communitarianism.

Space prevents me from evaluating each of the contributions here, but the essays of the two volumes are almost uniformly of high quality, readable, interesting, in some cases important.

The honorees — Professors Harvey C. Mansfield Jr. of Harvard and Wilson Carey McWilliams of Rutgers — are two of the most distinguished practitioners of the ancient and honorable trade of political philosophy. They each have made large contributions to the field, especially to thinking through the political dilemmas of our age. Mansfield has written so much that his bibliography at the end of the volume is longer than some of the essays. He is probably best known for his masterly studies and translations of Machiavelli and his analysis of the theoretical development of modern executive power, *Taming the Prince*. McWilliams's volume does not contain a bibliography of his writings, but he is well-known for having written *The Idea of Fraternity in*

America as well as a regular series of ruminations on presidential elections and consummate studies of such topics as religion in America and the Anti-Federalists.

These two scholars are each related to an even larger giant of 20th century political philosophy, Leo Strauss. Neither was a student of Strauss directly, but each identifies himself with the broad and diffuse school of "Straussianism," Mansfield being long recognized as a leading member and McWilliams calling himself a "fellow-traveler." They share with Strauss and each other a deep commitment to the history of political philosophy, looking at it as a source of wisdom for understanding how we came to be where we are morally and politically, as well as for alternatives to the dominant self-understanding of our time. Both refuse to accept the value-free, scientific, quantitative agenda of mainstream political science. Both range widely over the field of political philosophy, but both also have paid special attention to the nature and sources of the American political tradition. Perhaps most significantly, they question whether modern political philosophy is a sound basis for modern liberal democracy at the same time that they share a deep commitment to liberal democracy. In this paradoxical stance they reveal their mutual debt to Strauss, for they are quite self-consciously following his path here. It is this stance toward American liberal

democracy — friendly critics, critical friends, aspiring reformers — that makes these two so worthy of our attention today.

IT WOULD BE A GREAT MISTAKE, HOWEVER, TO conclude from the foregoing list of parallels that they are in any sense identical in their diagnoses or prescriptions. Mansfield's politics are famously associated with conservatives and McWilliams's with liberals. They diverge not only from each other, but from Strauss as well, indicating, among other things, the non-monolithic character of Strauss's legacy. A first indication appears in the titles of the two books under review. Mansfield "educates the prince"; McWilliams concerns himself with "friends and citizens." Mansfield is concerned with "the few," or even "the one alone"; McWilliams with "the many."

Among the many strengths of each volume is at least one essay devoted to the thought of the honoree. Robert Kraynack presents the best brief statement of Mansfield's position that I know of. Mansfield seeks an alternative to the grounding in natural rights to explain the goodness of the liberal democratic regime. Rights are "too doctrinaire" and too likely to degenerate into a "permissive freedom" and a quest for "equality of result." They threaten the true good of politics — the affirmation of human dignity and the resultant aspiration to

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The best things in political life are free! (at least for 6 issues, anyway)

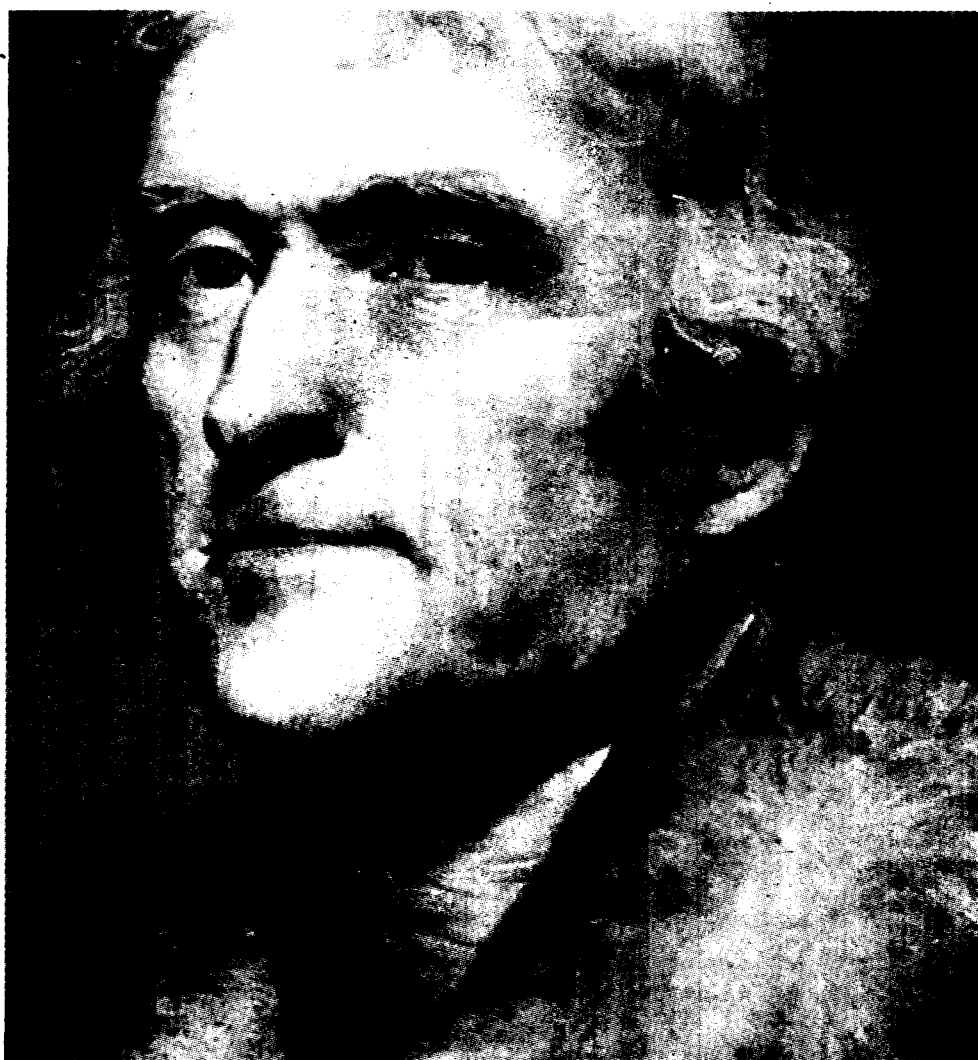


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Slate - February 15, 2001

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Thomas Jefferson and Sally Hemings: Case Closed?

BY LANCE BANNING

WITHIN THE LAST THREE YEARS, THE old story that Thomas Jefferson fathered several children by his slave Sally Hemings — a claim that most Jefferson scholars had earlier considered so implausible that nearly all of them rejected it without a truly rigorous investigation — has gained new credibility and extensive national publicity. In 1997, law professor Annette Gordon-Reed reviewed the evidence and concluded that the case for Jefferson's paternity was much stronger than scholars had supposed. In 1999, DNA tests proved compatible with the possibility that Jefferson had fathered Eston Hemings, Sally's youngest son. The DNA report (very misleadingly titled), a conference held at the University of Virginia, a volume of essays resulting from that conference, a forum in the *William and Mary Quarterly*, a bad movie, a dreadful TV miniseries, and a report by the staff of the Thomas Jefferson Memorial Foundation, which manages Monticello — all accepting the likelihood of Jefferson's paternity — have publicized the accusation far and wide.

The case for Jefferson's paternity of the Hemings children is strong enough that we can readily understand why so many able scholars

have come to think it likely. Their argument stands basically on five substantial pillars:

- Monticello was populated by numerous mixed-race slaves, some of whom resembled Jefferson, who, moreover, was privately and publicly accused during his lifetime of being the father of Sally Hemings's children and sometimes of other slaves as well;

- Madison Hemings, another of Sally's sons, said that he and his siblings were Jefferson's children (and his only slave children) in a report which accords in much of its substance with other sources. According to this interview, Thomas and Sally initiated an affair while they were together in Paris from 1787 to 1789. Sally became pregnant and agreed to return to the United States after they entered into a "treaty" in which Jefferson promised "extraordinary privileges" for Sally and freedom for her children when they reached age 21;

- Sally Hemings conceived all her children when Jefferson was at Monticello and no children when he was not;

- DNA tests show that a descendant of Eston Hemings carries a Jefferson gene; and

- DNA tests are incompatible with the possibility that Eston Hemings was fathered by Peter or Samuel Carr, Jefferson's nephews, the sons of Dabney Carr and Jefferson's sister Martha and the most plausible alternatives to

Jefferson himself as a father.

The case for Jefferson's paternity is strong enough that the burden of persuasion has shifted to the skeptics. Nevertheless, it is by no means true that no reasonable person can continue to doubt. It seems to me quite evident that unconscious bias and, in some cases, professed political objectives are as plainly at work on one side of this issue as on the other.

There are remarkably few uncontested or uncontestable facts in this matter. It is very much a problem of weighing and interpreting the thin and disputable evidence we have — and, ideally, of being wary of our own predispositions and examining this record with as much dispassion as we can possibly muster. Let me run again through those five main pillars:

- A supposed resemblance between Thomas Jefferson and some of Sally Hemings's children (or other Monticello slaves) is hardly evidence of a very substantial kind. A resemblance is often seen by some observers and denied by others.

- Madison Hemings's "Memoir" is actually a reporter's account of an interview with him, first published in 1873, in which we cannot tell with certainty which words and statements came from Madison Hemings and which may have been changed by the reporter — an account, moreover, in which both the interviewee and the reporter might or might not have been telling the truth. While many of its details can be corroborated from other sources, some can be disproved, and some suggest that Hemings or the interviewer was leaning on previously published accusations. Obviously, Madison Hemings could not have known firsthand who was the father of Sally's children or whether all of them were fathered by the same man. It is not even certain that he had the story of the affair and the "treaty" from Sally herself, who left no reported statement that it was true. The "Memoir" does not unquestionably outweigh the countervailing testimony of a former overseer at Monticello and several members of Jefferson's family. Neither is Madison's story consistent with the oral tradition in the family of his brother Eston, who apparently passed down a claim that he was the son of a close relative of Jefferson, not of Jefferson himself. We can well doubt that Sally Hemings became pregnant in France and would have entered into the improbable "treaty" that Madison described. No one has solved the mystery of the baby, supposedly conceived in France, that Madison said was born in 1790. It is not clear that Thomas Woodson, said to be that baby in another oral tradition, was Sally's Hemings's son, and it now seems certain (based on DNA-testing of Woodson's descendants) that, if he was, he was not the son of Thomas Jefferson too.

- The facts about Sally Hemings's conceptions — at least about the conceptions after 1789 — are among the strongest elements in the case for Thomas Jefferson's paternity. It is curious that Jefferson's grandson, Thomas Jefferson Randolph, and the historian Henry Randall both believed that they had indepen-

dently confirmed Martha Randolph's insistence that the child who most resembled Jefferson (presumably Eston) could not have been his, since he and Sally were "far distant" from one another for fifteen months before the baby's birth. We know that Jefferson was at Monticello during those fifteen months and, indeed, for most of the specific period during which Eston would have been conceived. We have no reason, either, to believe that all these other people were simply lying.

- The DNA results certainly do not prove Thomas Jefferson's paternity of any of the Hemings children. These results were widely misreported as having done that, and this misperception may well have spread indelibly among the public. But every knowledgeable authority, including the scientists who conducted the tests, has denied that this is what was found and even that it was possible to make such findings from the sort of tests that were done. In plain words, they showed that a descendent of one of Sally Hemings's children carries a Jefferson gene, not a Carr one, and that neither the Carrs nor the Jeffersons are related to the Woodsons.

- Although they implicate a Jefferson, not a Carr, as Eston Hemings's father, the DNA results cannot show that Thomas Jefferson was any more likely to have been Eston's father than any of Thomas's male-line relatives who might have had relations with Sally Hemings at the relevant times. To me, the absence of a wholly plausible alternative to Jefferson as a father is another of the strongest elements in the pro-paternity case. Thomas's younger brother, Randolph Jefferson, was probably at Monticello at the right time, perhaps with some of his sons; and Randolph, unlike Thomas, was known to dance and play his fiddle with the slaves. But Randolph or one of his sons seems so unlikely to have fathered all of Sally Hemings's children that respondents will continue to protest that this is a grasping at straws by Jefferson's defenders. Peter or Samuel Carr, the nephews who were believed to be Sally's lovers by Jefferson's grandchildren and who were reported to have confessed it to him and another witness by Thomas Jefferson Randolph, might still, to be sure, have fathered all of Sally's children except Eston. But this would not explain why Sally became pregnant only when Thomas was at home. So far as we know, one or both of the Carr brothers was usually at Monticello or quite nearby from 1794 to 1808.

The simplest explanation of most of the salient facts — that Jefferson fathered all the children born between 1795 and 1808 — seems sound only when we focus so intently on the points I have reviewed thus far. I remain a skeptic principally because of a long list of highly implausible things we have to believe in order to accept the Jefferson-Hemings story in anything like the terms advanced by Madison Hemings and assumed to be likely in much recent work.

We are asked to believe this U.S. minister to France, a man with ready access to some of

REVIEWS & ESSAYS

the most beautiful and accomplished women in Europe, initiated an affair with a 15- or 16-year-old slave girl, whom Abigail Adams had recently described as more in need of care than the 8-year-old she had attended. This girl was the personal servant (and likely something of a confidant) of Jefferson's two daughters — an individual, that is, whose discretion the accomplished politician and diplomat could not possibly have trusted. Although it may well be that Sally lived, during much of her time in Paris, in the cross-town convent where Patsy and Polly were being schooled, we are to assume that Thomas and Sally carried on their affair in the crowded two-bedroom townhouse where Jefferson lived — and did so without arousing the suspicion of David Humphreys, who slept in one of the bedrooms, or of anyone else who was there. She became pregnant with Jefferson's child, the story continues, entered into an agreement with him, and (with Jefferson taking care that she would have a berth convenient to his daughters) sailed back to the U.S. in this condition with him, his two girls, and her brother James. The baby, if it existed, either died soon after birth, leaving no trace other than Madison Hemings's statement, or became the elusive, unrecorded 12-year-old slave named "Tom," mentioned in James Callender's infamous 1802 newspaper accusation, who, if he later took the name Tom Woodson, was not Thomas Jefferson's child.

According to this story, Jefferson would continue in a monogamous and fertile relationship with Sally for nearly 20 years, ultimately fathering five or six more children (the first of whom, however, was not born until 1795). During these twenty years, he was content, as was she, to confine the relationship to the times when he was at Monticello, although he took other slaves with him wherever he went and as many as a dozen to the White House. On these terms, he continued in the relationship until at

least age 64, when Eston Hemings was conceived, five years after he had been publicly accused of a relationship with Sally and while he was contemplating his second presidential term. He carried it on, all this while, while constantly surrounded by visitors and by a large white family, none of whom — and least of all the daughters who would have known Sally best — ever had the least suspicion that he was involved with any of his slaves or ever saw the slightest indication that he was closer to Sally than to any other servant.

Indeed, the grandchildren who grew up at Monticello and managed it during Jefferson's last years did not merely say that any such relationship was wholly unsuspected — never a touch or a word or a glance — they said it was simply impossible in this particular house. "His apartment," his granddaughter told her husband, "had no private entrance not perfectly accessible and visible to all the household. No female domestic ever entered his chambers except at hours when he was known not to be there and none could have entered without being exposed to the public gaze." In fact, apart from Madison Hemings, no one who ever lived at Monticello and none of the uncounted visitors who stayed there overnight ever said that he was involved with Sally — not even Sally herself, though she lived in practical freedom in Charlottesville for ten years after his death.

It is possible, of course, that everyone except Madison Hemings was lying or covering up or engaged in psychological "denial." Jefferson's family had an interest in protecting his reputation, much as Madison Hemings had an interest in claiming descent from a famous man. I see no reason to think that any of these people were deliberately making things up. What of eye-witnesses who had no obvious interest in the matter either way? Former household slave Isaac Jefferson mentioned

Sally Hemings in later years; but did not so much as hint that there was any special relationship between her and Jefferson. And in another interview, Edmund Bacon, who was overseer at Monticello when Eston was conceived and may have worked there for years before, raised the subject of the accusations against his employer.

He freed one girl some years before he died, and there was a great deal of talk about it. She was nearly as white as anybody, and very beautiful. People said he freed her because she was his own daughter. She was not his daughter; she was _____'s daughter. I know that. I have seen him come out of her mother's room many a morning, when I went up to Monticello very early.

The girl was certainly Harriet Hemings, Sally's daughter. The father was named by Bacon but protected by the reporter, a preacher in Kentucky.

All of Sally Hemings's children who lived to adulthood did achieve their freedom, either de facto or de jure, and it is often said that they were the only nuclear family of Monticello who did. However, contrary to the terms of the "treaty" as Madison Hemings described it, Sally Hemings did not receive extraordinary privileges at Monticello. Jefferson fed, clothed, and treated Sally Hemings pretty much indistinguishably from his other household servants, recorded her life and childbirths in much the same way, and left her as part of the estate. By Madison Hemings's own account, moreover, Jefferson showed no particular affection for her children and reared them much as he did other household slaves. Can we believe that Jefferson, always concerned for contemporary and historical regard, would not only have continued an affair with Sally long after it became a public scandal — and still without arousing his family's suspi-

cion — but would have been so brazen about it as to have a slave whose resemblance to him was absolutely startling serve his foreign guests at dinner?

Strange things happen where sex is concerned, not to mention slavery and race. Racial mixing between masters and servants happened all the time in the Old South. It does not tax us highly to imagine how perfectly ordinary it was, or what a range of conduct it encompassed: from boys and girls coming into adolescence together in the familiarity of a plantation and playing games more adult, to deep affection, to tyranny in which it was as easy for a master so inclined to order a woman to his bed as it was to order her to do the laundry or tend the crop. As Jefferson himself told us, "the man must be a prodigy who can retain his manners and morals undepraved" within such a system.

Was Jefferson such a man? Did he, though a slaveholder, retain his morals relatively undepraved? The honest answer, to my mind, is that we simply do not know and may never possess the evidence that could answer the question absolutely. Parts of the argument for his paternity of Sally Hemings's children are hard to overcome. But this does not seem any harder, to my mind, than swallowing the lengthy list of radical implausibilities we have to swallow to accept that the story is true. It's a close call: a hard case, as the lawyers would say. But there are surely grounds for strong, continuing doubts. Count me, then, in the minority who seem to think that the proper verdict, at this moment, has to be "not proven."

Lance Banning is author of The Jeffersonian Persuasion and The Sacred Fire of Liberty: James Madison and the Founding of the Federal Republic. This essay adapted from a longer lecture and reprinted by permission of the author.

SMITH

CONTINUED FROM PAGE 5

emphasizes the importance of Smith as an inclusive and tolerant politician, taking "diversity" in America in the direction it ought to go — *E pluribus unum*. Slayton contrasts Smith's style with that of Smith's Massachusetts contemporary, James Michael Curley, who traded on ethnic resentments and, in doing so, stalled economic development in Boston for decades, leaving his state a political Yugoslavia-on-the-Charles. We take for granted that this multiethnic disaster did not also befall New York, but it is Al Smith who deserves much of the credit.

The author carefully documents the role of religious bigotry in costing Smith the 1928 presidential election. The Ku Klux Klan was an important but unacknowledged part of the Democratic coalition at that time. The KKK and its sympathizers turned, with full force and shameless libel, against Smith. One widely circulated flyer showed a picture of the construction then underway on the Holland Tunnel and identified it as a secret

passageway for Smith to bring the Pope to Washington to rule.

Just by laying out the record, Slayton goes far to debunk the principal modern liberal smear against Smith: that bitterness over the national success of Franklin Roosevelt in 1932 turned Smith into a kind of anti-liberal crank who reflexively opposed the New Deal because he was jealous of Roosevelt. While Smith was undeniably bitter that the White House had been snatched by a man he considered a dilettante, Smith remained one of the most farsighted public figures of the 1930s. His public denunciation of Hitler and the Nazis within months of Hitler's ascent to power in 1933 made him the first prominent American political leader to take such a stand.

Slayton makes too much of the fact that many of Smith's allies opposing the New Deal were wealthy and powerful, as if the quality of ideas is a function of the income of those holding them. But Slayton also recognizes that much of Smith's pointed, public objections to Roosevelt's policies were rooted in Smith's understanding that many actions proper and

constitutional for a state government are not proper for the federal government.

Al Smith's defeat in 1928 had terrible consequences for both political parties. The winner was Herbert Hoover, who, as Slayton notes, was seen as "far and away the most liberal" of the potential Republican candidates that year. As president, Hoover dealt with the financial crisis of 1929 by reversing the low-tax policies of Calvin Coolidge, which turned a short, painful financial crisis into a long, painful depression for the first time in U.S. history. The GOP did not really recover until the election of Ronald Reagan in 1980.

The magnitude of the drubbing Smith took in 1928 meant that when voters were ready to elect a Democratic president, the choice would not be Smith but his successor as New York governor, FDR. Roosevelt failed to bring unemployment down until World War II did the job for him, but he succeeded in entrenching the Democrats as the party of a big-spending administrative state on the Progressive model for generations to come.

Smith did believe in regulating business where he found it necessary, as in the aftermath of the 1911 Triangle Shirtwaist fire, in which 146 women died because their employer had locked the exits to keep workers at their sewing machines. But it is inconceivable that Al Smith of Tammany Hall, where politics and social services were an organic whole, would as President have built such a bureaucratic edifice as Roosevelt did, detached to the greatest extent possible from the vagaries of popular governance.

The difference between the liberalism of Al Smith and that of FDR also explains why Roosevelt's hagiographers have gone to such lengths to smear the later Al Smith as a reactionary. A liberal of unquestionable credentials who understood federalism and who consequently hated the New Deal could not be allowed to exist as an honorable figure.

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BOOKS IN BRIEF

April 1865: The Month That Saved America, by Jay Winik. HarperCollins, 480 pages, \$30

THE CIVIL WAR HAS FOUND THIS GENERATION'S Homer. Jay Winik's *April 1865* makes "the American tragedy" vivid by portraying the perils of the last month of the war, the heroes and villains who came close to destroying America and who ultimately saved it.

Winik himself performs the premier function of the statesman: to teach virtue (while being ever mindful of the complications it creates) as a goal for politics. And thus he revives the best of both sides in the Civil War. Grant makes the Union case succinctly: despite its valiant leader the South's "cause was ... one of the worst for which a people ever fought." And Winik's portrayal of Lee makes abundantly clear how the character of a man can transcend even the worst of causes.

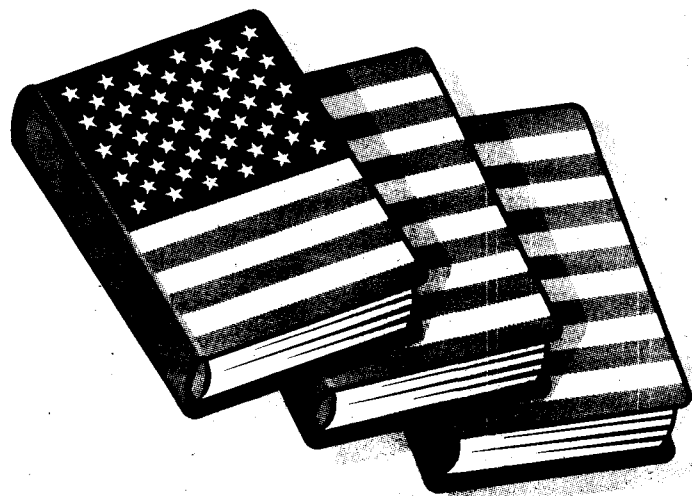
Even after years of horror, the last year of the war revealed still worse possibilities. Winik reminds us of the proposed Confederate strategy for continuing the war through guerrilla operations. The South had employed such tactics in Missouri and Tennessee and in the brutalities of Quantrill's raids. But the Union displayed its own frightful power in Sherman's march. Perhaps the latter helped cause the suspension of the former. Lee and the Union Army saved America from a perpetual war whose self-destructive effects Lincoln had predicted in his First Inaugural address.

If Homer nods, it is in the conclusion: "Gone forever was the talk of replicating other civilizations — a new Rome or a new Athens, even a new London. That was the meaning of April 1865." On the contrary, Winik reminds us how the Civil War places America among those past civilizations. —Ken Masugi

Our Secret Constitution: How Lincoln Redefined American Democracy, by George P. Fletcher. Oxford University Press, 304 pages, \$25

LAW PROFESSOR GEORGE P. FLETCHER, author of *Loyalty* and books on criminal law, has written a polemic about the true (and secret) Constitution, one that affirms the standard progressive-liberal understanding of America. Echoing the late Supreme Court Justice Thurgood Marshall's bicentennial critique of the original Constitution, Fletcher sees the Civil War Constitution as replacing freedom with equality, "we the people" with the divine workings of history. Thus, in an increasingly popular academic ploy, he replaces a caricature of Locke with clichés about Karl Marx's teacher, Hegel.

Yet none of this is as harmful as his portrait of Lincoln, the Lincoln many wannabe-conservatives and libertarians love to hate. Fletcher is shrewd enough to see what many would-be friends of limited government miss: that capturing Lincoln for the Left is crucial to the defense of Hegelian, progressive-liberal conceptions of political freedom. Justice John Paul Stevens's use of the Declaration of



Independence in order to defend sodomy and the right to die provides an apt parallel to Fletcher's Lincoln. Fletcher's afterword on the 2000 presidential election recount in Florida concludes his tedious sermonizing: "Allow me to end with a vision of another great awakening. . . . We the American people will arise from our ideological slumber. We will realize that this Supreme Court has become an authoritarian institution that speaks in the name of the nation and equality but fails to credit the sovereignty of the people." There is nothing secret about the arrogance of this professor of secrets. —KM

Public Morality, Civic Virtue and the Problem of Modern Liberalism, edited T. William Boxx and Gary Quinlivan. Eerdmans, 232 pages, \$18

TALK OF "LIBERALISM" RISKS CONFUSION. IN its contemporary political usage, it represents big government, egalitarianism, and social engineering. This is a development and deformation of original or "classical" liberalism — the philosophy of equal natural rights and limited government developed by thinkers such as John Locke. In seeking to replace classical liberalism at the political level, modern liberalism developed its own morality: tolerance rather than civility, submissiveness (especially toward government) in place of spirited independence, personal gratification and radical autonomy over self-discipline and strong family and community ties.

Was this bound to happen? Does liberalism's emphasis on rights and individualism necessarily condemn it to moral squalor? These are some of the questions that animate *Public Morality, Civic Virtue and the Problem of Modern Liberalism*, comprising 11 essays from a conference at St. Vincent College.

Collected conference papers often don't read well, but Boxx and Quinlivan provide coherence and order. They open with Walter Berns' invigorating essay on "The Cultivation of Citizenship." Prefiguring his latest book, *Making Patriots*, Berns reminds us why it is honorable to love our country: in a good regime virtuous men are also patriotic citizens. This serves as a kind of inoculation against some of the later chapters, which are more skeptical about liberalism's compatibility with virtue.

Daniel J. Mahoney, for instance, argues that "our natural rights republic, like all modern liberal regimes, is rich with moral content," but that this content is overly formal. This "indetermination," he continues, "is not a result of a later departure from a more sub-

stantial or determinate liberalism present... in the American founding," but is inherent to any regime based on rights. "[L]iberalism, in practice, inevitably erodes the 'moral capital' or inheritance which is essential to its well-being."

Mark Blitz is even gloomier. "[O]ur liberalism" is "uninspiring," "flat," and "placid." Despite this, liberalism does have its own characteristic virtue: responsibility. Yet on examination, this turns out to be a virtue manque—responsibility understood as civic engagement and attention to the common good is just self-interest with a view to the long-term. Blitz's discussion of liberalism and responsibility is strictly on the level of theory.

Other essayists make a point of refuting, or at least softening, the theorists' critique. Peter Berkowitz notes that it is a mistake "to reduce liberalism to its fundamental premise, as if the liberal tradition embodied a monolithic world view and one could, from this premise, draw all pertinent conclusions about its governing style, vitality, and worth." Classical liberalism may not offer a complete account of the virtues, yet it requires moral habits to sustain itself. Classical and biblical elements inform our political and moral experiences as well. Our problem today is not liberalism's hostility to virtue, but our forgetfulness of the full range of our moral heritage. —Glenn Ellmers

One Nation . . . Indivisible?, by Sara S. Chapman and Ursula S. Colby. State University of New York Press, 247 pages, \$19.95 (paper)

SARA CHAPMAN AND URSULA COLBY SOUND a warning against the threat of faction in politics today. But theirs is not your Founding Fathers' federalism, although Chapman and Colby cite Federalist No. 10 approvingly, and write admiringly of Madison, Washington, Jefferson, Hamilton, and Lincoln. In the preface, the authors describe today's faction-mongers as "unrelenting," "uncompromising," "paralyzing," and "malignant." But it turns out that language is reserved for one faction in particular: conservative Republicans. Chapman and Colby blame Ronald Reagan, Newt Gingrich, and the five GOP-appointed Justices of the U.S. Supreme Court for knocking the Founders' federalism out of kilter. They describe the effects of "corrosive partisan extremism in our government since the rise to power in 1994 of the intransigent, ideology-driven Republican Right Wing."

Interspersed with partisan jabs, the authors downplay the role of the states in the federal system. They discuss the early challenges of sectional conflict and decisions about the Constitution's parameters: Hamilton's national bank, Jefferson's Louisiana Purchase, Lincoln's interpretation of executive powers in trying to preserve the Union. Not surprisingly,

Chapman and Colby praise the Progressive Movement, the New Deal, and the Great Society as necessary, desirable steps in keeping with Hamiltonian, Jeffersonian, and Lincolnian exercises. The book persistently advances the argument that centralization of power in the national government keeps faith with the Founders' intentions.

In the end, *One Nation . . . Indivisible?* seeks to justify today's big-government "federalism" as right for these times. While making a contribution to the debate, it doesn't contribute as much as it could have if the authors had demonstrated some of that charity toward political opponents which they impute to Clintonian "centrists." —James R. Edwards, Jr.

Counting on the Census: Race, Group Identity, and the Evasion of Politics, by Peter Skerry. The Brookings Institution, 272 pp. \$25.95

NOT ONLY IS *COUNTING ON THE CENSUS* required reading for understanding the coming battles over reapportionment, it is also a splendid example of fair-minded analysis of racial politics. Peter Skerry continues the work of his award-winning *Mexican-Americans: The Ambivalent Minority* (which made clear how difficult a task George W. Bush would have attracting Hispanic voters outside Texas). Moreover, the work is a thoughtful reproach to those enemies of politics who attempt to transcend its partisanship by an allegedly "scientific" standard.

As Skerry puts this principled issue succinctly, "The Framers certainly entertained no notion of a right to be counted.... In the modern regime they established, the census was understood to balance the opposing incentives of representation and taxation." Skerry defends this fundamental, rough-edged purpose of the census against advocates of various statistical sampling techniques who desire to produce a scientifically valid count. Such methods can actually undercount the minorities, whose spokespersons mau-mau for the new approaches most insistently. Of course the purpose of such counts is to secure more funding for federal and state programs, scarcely the fundamental political purpose the founders envisioned in requiring a decennial census.

The census "is not simply about counting in the abstract... [but] with establishing the boundaries that define the parts, or groups, that constitute the political community." For example, why should some Americans be counted as "Hispanics"? How does that relate to "white"? Such decisions are at the heart of how we perceive ourselves as Americans. While defending the gathering of data that make us better-informed citizens, Skerry warns us against the siren call of science and the demands of racial and ethnic ideologues, who would steer us "away from the contentiousness of rigorous politics and toward the false harmony of an administered democracy." —KM

Not Too Hot, Not Too Cold

BY JOSH JENSEN

WHETHER AMERICANS TYPICALLY SERVE AND drink our wines at the wrong temperatures, the whites too cold and the reds too hot. I object to those practices because good wines can't — and don't — taste right when they're too hot or too cold. And for that small category of truly great wines, it's a crying shame to drink them too warm or too cold. Both extremes prevent us from appreciating and savoring their greatness.

An extremely cold wine, such as a bottle of Chardonnay that's been fully immersed in ice or in an ice-and-water mixture for 30 minutes or in a cold refrigerator for more than an hour or two, will be between 32° and 36° F. At such a low temperature, unfortunately, that wine can show you only a mere fraction of its many aromas and flavors, until and unless you allow it to warm up *a lot*. You can warm a glass of wine quickly by cupping the bowl of the glass in your hands, if you happen to own a pair of hands that are warmer than 32° F. If your wine's too cold but you're in no hurry, the room temperature should eventually warm it up. In any case, take the bottle out of the damn ice bucket and leave it out.

Doing so in the restaurant, though, can lead to a cute little minuet between you and the waiter if you're dining in a place that is 100 percent determined that its customers should drink their white wines *cold, or else!* This happens to me more often than I care to think about. My glass of white wine will be too cold, so I'll take the bottle out of the ice and put it (the bottle, not the ice) on the table. I'll go back to my conversation, or if I'm by myself, to whatever wine catalog I'm reading.

Next thing I know, without my having heard or seen anything, the bottle is back in the ice. Hmmm. I take it out a second time and put it back on the table a second time. Now I'm beginning to get suspicious. Is this restaurant haunted? I watch the bottle out of the corner of my eye while pretending to read my catalog. This time I catch the waiter or waitress cold-handed, trying to take it off the table a second time to put it back in the ice. Usually at that point all you have to do is calmly explain that you didn't put the bottle on the table by mistake, but rather on purpose, and he'll buy into your eccentricity in hopes of being rewarded with a big tip.

Sometimes, though, you have to do a little jaw-boning. The waiter will explain to you in short, easy-to-understand, well enunciated, declarative sentences, "Sir, this is white wine. White wines are served cold." That speech pattern is familiar to me because I just got back from my college reunion. The undergraduates who worked at the event spoke to us that way, which, incidentally, is how you're supposed to speak to the mentally retarded. (Come to think of it, they might have a point.)

So you try telling the waiter, in a confident enough tone, that you're the customer and this is how you want your wine, and the customer is always right, etc. Usually that will do the trick, but not every time. In that tiny number of cases, you might have to pull out all the stops, explaining with a big smile on your face that your generosity as a tipper is legendary, provided that you are allowed to drink your white wine at a temperature at which you *can actually smell and taste the wine*, but that if you are forced to drink your wine at a temperature at which you *can't smell or taste it at all*, such as freezing-cold (here you might want to interject that you read somewhere that wines can get hypothermia, just like humans; see below), not only do you not intend to pay for the wine but also he will observe that your legendary tipping generosity can turn instantly into parsimony, and further that you happen to be on very cordial terms with both the mayor and police chief of whatever town you happen to



be in, so would he please stop putting your wine back in the ice and tell all buspersons, captains, and anyone else likely to walk by that you're a weirdo who doesn't want his white wine cold, but who claims he's a big tipper, so can we just let him be?

In fairness, there are at least four situations in which ice buckets can play a useful role. The first situation is when you have a bottle of white or rosé that's not cool enough. Perhaps it's been in your car and there's no fridge nearby, or you want to start drinking the wine right away, sooner than a fridge could lower the wine's temperature. (As an aside, I'm proud to say I really like good, dry rosés, and I prefer to drink them at white wine temperatures, around 55°.) So for those situations where you wish to cool down your white or rosé quickly, an ice bucket is the perfect device. But fill the bucket with a lot more water than ice.

The second situation arises when the ambient air temperature, whether indoors or out, is warm or even hot, for instance if you're having a summer picnic in direct sunlight. Again, an ice bucket, but always with more water than ice, is the perfect solution, for red wines as well. Take the bottle out of the bucket if the wine starts to get too cold, and put it back in if it starts to warm up more than you want.

When I pour our wines at wine tastings in warm weather, I'll often be at the edge of a tent, and my luck usually has me pouring with the sun full on me and our wines. When that happens, I constantly rotate all the wines we're showing, moving them into and out of the ice water, Pinot Noirs as well as all the whites, to keep them as close as possible to the right temperature. It helps if you have about six hands.

A third (somewhat "emergency") use for ice buckets is for cooling down red wines in restaurants that seem to have nothing but warm or hot bottles of red on hand, or whose staffs believe that hot is best for red wines. It's actually sort of fun to see the expression on the faces of some of these people when you ask for an ice bucket for your red wine. You usually can get them to honor your request by claiming, "I own a winery." Or you can make an even more outrageous claim, "I know what I'm doing."

The fourth valid use for ice buckets is for champagnes,

which I prefer to drink quite cold, say around 40° F.

But to return to my belief that it's a mistake to drink still, i.e., non-bubbly, white wines too cold, it shouldn't surprise us that lowering a wine's temperature almost to the freezing point stuns a wine. It certainly would stun you or me if we were put in ice for that long, and it's the same for wines. It's called hypothermia. Wines — and humans — just don't work right at those very cold temperatures. But the good news for wine lovers is that wine recovers immediately from the effects of (short-term, at least) hypothermia as soon as it warms up. At any rate, wine recovers better or faster than you or I would.

A fancy way of categorizing the above comparison between wines and humans is to say that I "anthropomorphized" the wine. Well, let me tell you that's a big taboo among the chemistry professors who run the winemaking department at the University of California at Davis, our country's biggest and best known training ground for winemakers. Their approach seems to be — and I know they wouldn't be thrilled with the following description any more than they like anthropomorphizing wine — that wine is not a living thing (which it emphatically is) but merely a sort of soup of water, alcohol, chemicals, minerals, ions, esters, phenols, and other substances, and that it is "made" by white-coated chemists operating in pristine, sterile control rooms.

These scientists make and implement specific designs, adding this, subtracting that, processing all wines through huge, shiny machines in the same way totally fake, manufactured beverages such as disgusting colas and other artificial soda pops are made, i.e., assembled from the ground up by taking some water from your city water supplies, shooting some carbon dioxide into it for bubbles, throwing in some sugar (or fake sugar so it can be called "diet"), some chemicals for "flavoring," some other chemicals for artificial color, then flooding every known retail outlet with cans and bottles of this stuff, even sending it all around the world to poor, unsuspecting foreigners who are unfamiliar with our bizarre customs, and paying three or four surviving monster broadcast companies hundreds of millions of dollars to brainwash our citizenry into going out and spending their hard-earned money — or should I say the 49 percent of their money they still have after the U.S. government and the California government have helped themselves to the first 51 percent — on that garbage.

I happen to be an ardent believer in freedom, but when I see otherwise sane, well-adjusted adults drinking soda pop I have to wonder if society has gone just a wee bit too far with this "consenting adults" thing. Kids, I can understand. After all, soda pop is cloyingly sweet. But adults, shouldn't they know better? This is just one item in the long list of things I will never understand.

Let me close by summarizing my guidelines on correct wine drinking temperatures.

- Wines are often served and consumed too hot or too cold in this country.
- White wines, which are usually, but not always, the ones served too cold, and rosés both should be served cool to the touch, say around 55° F.
- Red wines, which usually are served too hot because people misinterpret the old "room temperature" guideline, should be served cool too, in fact only slightly warmer than white wines. Let's call this 60° F.
- The main exception: Champagnes and other sparkling wines, which are best when quite cold.

Josh Jensen is president of the Calera Wine Company in Hollister, California. This essay is adapted from his Summer 2001 newsletter.

A Life in Three Movements: An Interview With Raoul Berger

BY CONSTANCE ROSSUM

WHEN HE DIED LAST SEPTEMBER AT AGE 99, Raoul Berger was famous as a legal scholar, whose books had illuminated American constitutionalism and provided powerful historical arguments against judicial activism. In this interview, he reflects on his remarkable triple life as a musician, lawyer, and scholar.

Berger emigrated to the United States from Russia while a boy. An expert violinist in his twenties, he left the Cincinnati Symphony Orchestra in 1932 to return to school. He became a lawyer, serving as special assistant to the U.S. Attorney General during World War II, and then practicing law in Washington D.C., for 16 years. In the 1960s he became Regents Professor of Law at the University of California at Berkeley and eventually a senior research fellow at the Harvard University Law School. Berger published his first book at age 68, and went on to publish six more, including *Impeachment, Executive Privilege*, and *Government by Judiciary*. He was interviewed on his birthday in January 1995.

How did you decide to embark on a second career?

From the time that I was a little boy, I had a passion for the sound of a violin. I love classical music. And I poured myself into it with fanatical devotion. I studied with great masters in New York and Berlin. By the time I was 26, I was the second concertmaster of the Cincinnati Orchestra. My devotion to music resembled an addiction, comparable to an addiction to drugs. But . . . I realized that it was impossible for one who doesn't hit the heart of the target to make a career as a virtuoso, as a soloist. That had been my ambition and training.

So what drove me out of music was not a desire to explore some other avenue, but because I found playing in the orchestra frustrating; I was over-qualified for the job. Mind you, I was making more money in music than I would make at law for quite a few years. But what I was doing was numbing, corrosive. Another thing: one goes into any art for self-expression. The only livelihood open to me was to play in an orchestra. I did not want to teach, to spend my life straightening crippled bow arms. Even if you are at the very top in an orchestra, it is the conductor who calls the tune and you are expressing what he wants to express. That is inescapable.

So, at age 26, I realized I've got to get out of here. I didn't know where I was to go. But I really felt like a bear who had been caught in a trap. I amputated that leg. Escape cost me seven years. First, I had to go to college, for without a degree I could go nowhere.

I should add that I grew up in a generation in which business had been discredited. Upton Sinclair had written an exposé of the meatpacking industry, *The Jungle*; Sinclair Lewis had written *Babbitt*. So I ruled out business; my reasons for excluding medicine would make a long albeit interesting story. There remained the law. I had not the slightest inkling what the law was about, whether I would like it, whether I could [do well] at it. Toward the end of August 1932, I wandered into the law school of Northwestern University and called on the dean. It so happened that I had played a number of recitals in Austin, Texas, where he had taught at the University of Texas and been immersed in writing a book that made him a prominent figure in the law. He did not attend my concerts, but his wife did, and spoke to him about a promising young violinist who was destined to make his way. So he recalled that and tried to dissuade



me from entering law; it would require learning a new language, and take years before I could achieve the competence I already had in music. But I told him that I had burned all my bridges and might as well give the law a try. . . . After 10 days I said to myself, "Raoul, this could be a very engrossing way of life." Unlike an accountant, for example, who can bring his skills to bear in corporate law, I didn't have a single transferable capacity. But I had learned self-discipline, to work hard and steadily. I had also learned that every detail counts. And I had found that technical mastery was essential if I was not to be a slave to the instrument. These [proved] to be useful habits to bring to the study of the law. . . .

I didn't know whether I had any other talents, still less whether I would have aptitude for the law. My motive was simply to get out of what my teacher, Franz Kneisel, regarded as a "musical whorehouse," to make a modest living. It was by sheer accident that I found the law engrossing. It continues to be engrossing into my deep old age. And there is my story.

You continued to play the violin though, didn't you, until you were 60?

The violin helped me to pay my way through college and law school, but I abandoned music as a livelihood from the time I graduated from law school. But I practiced every morning for one hour . . . before setting out to the office. Playing calls for a very high degree of muscular coordination, and to keep in shape, one must practice "setting-up" exercises every day. Otherwise you cannot respond to the demands great music makes upon you. My reward was to play quartets every Saturday night with top-flight professionals. This I did for years. I may add that some of the greatest music has been confided to the string quartet, and for me nothing surpasses a classical "jam session."

When I reached 60, I realized that time had taken its toll; whereas I once had had real command of the instrument I found myself slipping. This is not peculiar to violinists. I recall that a champion golfer, Walter Jones I believe, gave up golfing. When asked why, he said it is humiliating to go around in 80 strokes after you have done it in 62. That is precisely my feeling. After you have played supremely well, or thought you did, it was very painful to fall short of what your ear demands. So when I was 60 — at which time I had a beautiful Stradivarius paid for by my

labors at the law — I put the violin away, and in the 34 years since, I haven't touched a fiddle. In the words of Will in "Oklahoma," it had to be "all or nuthin'."

Justice Holmes wrote that the law is the domain of the thinker, not the poet. I was passionately attached to the violin, and to this day I consider that was where my real talent was; and from time to time I thought that I was very close to being a real top-notch. I don't feel that way about my place in the law. There are hundreds of fellows in the law who are as well or better equipped than I am. To give you a homely analogy, I am like the guy who fell head over heels in love with a captivating, ravishing woman who jilted him. So I turned around and married a quiet Hausfrau — the law — with whom I have lived very contently. I have never duplicated in the law my great moments in music. To this day she remains my beloved; every day I sit by myself and listen to recordings by some of my idols. . . .

Why do you write?

It's a commonplace that you haven't really grasped an idea until you have written it down and looked at it, at which time you may revise it ten, twenty times before you conclude that it expressed what you have been thinking. It's fun to think, and writing reduces the inchoate to the graspable. Then again writing is a great art. As I indicated, it is one of the great disappointments of my life that I do not bring the artistry and nuance to writing that I believe I brought to the violin. I think I have learned to write with lucidity and clarity, but believe that I was a much finer artist as a violinist than I ever became as a lawyer. Much to my disappointment. But I have learned to live with that, too. Understand, I still get a lot of pleasure out of wrestling with a complex problem, breaking it up, assembling all the pieces. And where some people complain about the slavery to their desks, I enjoy nothing so much as sitting at my desk and wrestling with something until I get into a form that I feel, well, that's satisfactory, that will pass.

Is that why you have never "retired"? It's the pleasure that you get?

I wouldn't know what to do with myself. Somebody once asked Bertrand Russell, who was a truly great man, "Why do you work so hard?" He said, "To escape from boredom." I worked feverishly when I was violinist, and I worked very hard at the law because, well, to begin with, I came into the law about 10 or 12 years behind the other fellow. So I had . . . a lot to make up and I was very apprehensive that what I had lost I would never make up, and I will confess to you that I never did make it up, really. Striving for excellence is a great spur. I enjoy sitting down at my desk and working every day. And I am not alone in that. I am sure there are many people who have done work that interests them, who enjoy continuing to work as long as they are able physically to do it.

If I will be known for anything, it will be for the work I did after 65. Let me sound a chastening note. One of my idols was the great pianist Vladimir Horowitz. He was a paragon. For more than 80 years I have been listening to music. I love [Pablo] Casals, [Arturo] Toscanini. But no artist has meant as much to me as Horowitz. A few years ago he passed away. The other day I read in the Sunday *New York Times* a review of a recent recording of a sublime piano sonata by Schubert, comparing a few artists who couldn't hold a candle to Horowitz, but not mentioning Horowitz. My God! the greatest performance of all, that of Horowitz, wasn't even mentioned! Here was a true giant forgotten after a few years, and that is what will happen to most of us. I look at my work very coolly; some of it has been useful and may prove of worth down the line.

When something piqued my curiosity, I explored it. My luck was that I picked a few problems over the years that had escaped notice. Well, they are as likely to be forgotten as Horowitz's angelic rendition of Schubert.

Given what you have written and the questions that you have studied, of what are you most proud?

I have never regarded myself as a deep thinker, thinking "big thoughts." Nothing like that. I am really like a Dutch maid cleaning out dark closets. Let me give you [an example].... The debate about the death penalty has revolved largely about the question: Is it or is it not a deterrent? But I asked myself the question a lawyer asks: Is it constitutional? The argument against the death penalty was that it is "cruel and unusual punishment." Justice Brennan insisted that the death penalty is a cruel and unusual punishment. He was a would-be saint. The Fifth Amendment says that nobody shall be deprived of his life without due process of law, which means if you give a man a fair trial, you can deprive him of his life. Now the Eighth Amendment must not be read to prohibit what the Fifth Amendment allows. Again, that was not a profound insight. It was on the face of the Constitution. It doesn't hurt to read the Constitution for yourself, by the way....

What advice do you have for those who want to engage

in a long and productive life as you have — a happy life?

I cannot say I have had a "happy life." It has been a life of struggle, of climbing walls that seemed insurmountable, of great disappointments. I was buffeted by a series of accidents that bumped me into a life of scholarship. When at age 65, I retreated from a life of action and settled in Concord, I found great contentment in wandering where my intellectual curiosity led me. Whether this would fit within the average conception of "happiness" I cannot say. Nevertheless I venture to think two things are essential for a happy life. First, I would list a rich companionship with one you love. To me that is central. The second thing is to enjoy what you are doing. If you are doing something that is hateful to you or extremely boring, I would say, don't waste your life doing it. Were I to distill the essence of my own life, it would be: enjoy what you are doing and never quit trying. One of the glories of America is that there is mobility, not so much upward as lateral mobility. Don't feel frozen into a situation you hate. Try and break loose. If necessary take some time in getting retraining. These are pretty mundane considerations. But then, in ninety years of living I don't think I have come out with much wisdom. I will claim only one act of wisdom in my life: when I was 26, I realized that to spend my life doing what I hated was to waste it.

So, you believe you made the right decision at 26, which significantly affected the rest of your life.

No question about it. It was the one time in my life I showed wisdom. Had I taken the other path, I would have saved myself seven years of retraining... but I did make the right judgment. I never hear an orchestral concert without breathing a thanks for my escape.... Let me tell you of an incident that was pivotal. When I was 60 or so, I was in Vienna and went to a concert of the Vienna Philharmonic Orchestra under the baton of Karl Bohm. In the program notes, he told how he had been called to conduct the first performance in Dresden of an opera by Richard Strauss. As they stood in the curve of a piano, Strauss was thumbing through a Mozart score, and admiring one felicitous measure after another. "If only such melodies had been granted me," said Strauss. As a matter of fact, Strauss had been granted some wonderful melodies. But he said, "I did the best with what I have." To me this was like a vision on the road to Damascus. Up to that point I was sorely disappointed with myself; I craved to be an artist in writing, a real man of letters. Suddenly, I saw that if a giant like Strauss could say "I did the best I could with what I have," a lesser mortal like myself may say the same.

Constance Rossum is an associate professor at Azusa Pacific University and President of Management Directives, Inc., an independent consulting firm. This interview was one in a series she conducted with mature adults who had moved from "success to significance" for Bob Buford's Leadership Network.

ESSAYS

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virtue. The inherent sense of dignity, "beyond all calculations of material interest," is a manifestation of the "pride or spiritedness or 'manliness' of men asserting their nature as rational beings in the given hierarchy of nature."

This Aristotelian understanding of human dignity supports liberal democracy, a form of the mixed regime that Mansfield believes Aristotle finds to be the best regime. The pure rule of the virtuous or wise is perhaps justifiable in a certain sense, but it is not ultimately desirable, for it treats the other residents of the city as children — arrested in the movement toward virtue and responsibility. One needs not "perfect virtue" but "diluted virtue" mixed with "political freedom under the constitutional rule of law." Mansfield's main task, then, is to recapture for American liberalism a superior grounding in Aristotelian pride, which would help prevent our democracy from sliding into its characteristic corruptions.

Notably, Mansfield differs from Strauss not only in looking to Aristotle rather than Plato, but more strikingly in maintaining, as Kraynack has it, that "Locke and Madison [are] modern Aristotelians who faced a new situation created by Christianity that required them to promote virtue indirectly, as 'disguised virtue.'" The Lockean theory of rights is better understood in terms of prideful self-assertion than in the Hobbesean terms Strauss attributed to Locke. The foundations of American liberal democracy are thus sound, needing only to be properly understood and defended.

Two essays in the McWilliams volume explain his thought almost as effectively as Kraynack does Mansfield's. Ironically, given that Mansfield is more closely associated with Strauss, McWilliams is in many ways a more orthodox member of the school. In particular, he sees the ground of modern liberal democracy more or less as Strauss did: Locke and the American founders, especially Madison, are

not "concealed ancients," but moderns, and this means "possessive individuals." They established a politics and morality at odds with both friendship and citizenship, and hence are enemies to genuine community.

McWilliams is best known for his attempt to remind us of the alternative foundations of America — especially Christianity, as well as the residue of ancient philosophy — that can serve as a shadow tradition to the dominant Enlightenment culture of Locke, Madison, and the others. Within this secondary political culture, McWilliams has emphasized the influence of the Puritans (America's real founders) and the Anti-Federalists.

The organization of the McWilliams *Festschrift* brings out very clearly just how McWilliams differs from Mansfield: the first part is devoted to "the problem of human pride," the next part to friendship and fraternity as the means and results of "overcoming pride." Whereas pride and manliness lie very near the center of Mansfield's affirmations, McWilliams takes quite the opposite path. Mansfield seems to sympathize to a degree with authentic modernity's (Machiavelli and Hobbes) turn against the ancients because of Christianity, and with pseudo-modernity's (Locke and Madison) concealment, for the same reason, of their allegiance to classical philosophy. McWilliams diverges from Mansfield (and from Strauss) in seeking to revive and ground his politics on religion, mainly Christianity.

Harvey Mansfield and Wilson Carey McWilliams are among today's most provocative, learned, and valuable thinkers, whose agreements and disagreements, as these books remind us, open up some of the most significant paths for pondering where we are and where we ought to be going.

Michael Zuckert is the Nancy Reeves Dreux professor in the government department at the University of Notre Dame.

DEATH

CONTINUED FROM PAGE 11

duty to die. His only omission is not acknowledging the economy of health care and the momentous decisions it now requires of us. Employer-provided health insurance is faltering as costs rise beyond realistic budget limits. In the managed care hotbed of California, hospitals are failing and medical groups are going bankrupt. Yet the public demands, on pain of litigation or criminal sanctions, that doctors and health plans provide every service that holds even faint hope of prolonging life, even in the face of death. And we expect that someone else will pay for it all.

Perhaps Smith can be forgiven a lawyer's one-sided argument. His uncompromising advocacy for the natural right of life is most welcome, given our apparent flirtation with the slippery utilitarian slope. In the chapter "Organ Donors or Organ Farms?" he illuminates the powerful forces pushing back the definition of death to include "heart-beating" organ donors.

Great strides in transplant surgery have created an insatiable demand for donor organs. In day-to-day hospital work one sees a subdued impatience with those not quite ready to part with their organs. Federal and

state laws require hospitals to talk up organ donation with the families of terminal patients, exerting a subtle but unmistakable pressure to "live and then give." The Presumed Consent Foundation (www.presumedconsent.org) makes possibly the most brazen demand on the sick and injured to give up their warm and well-perfused organs. The founder, a lung transplant recipient, insists that all persons be considered fair game for harvest of their organs unless they opt out. Thus the death tax would be paid not only with money, but also literally with a pound of flesh (or more, depending on the transplant surgeon's appetite).

Partisans of utilitarianism bend the definitions of life and death to their own purposes. That many of those purposes are noble makes life-and-death decisions so much more arduous. We can look to the wisdom of both science and philosophy to guide us in the fray of competing harms and goods that is applied bioethics. Universal truths cannot decide particular cases, to be sure; but neither can hard cases be decided without intelligent reference to first principles.

Timothy Wheeler, M.D. is director of Doctors for Responsible Gun Ownership, a Project of the Claremont Institute.

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Nazi Thinker

Introduction to Metaphysics, by Martin Heidegger, translated by Gregory Field and Richard Polt. Yale University Press, 284 pages, \$30

BY MARK BLITZ

GREGORY FIELD AND RICHARD POLT'S translation of Martin Heidegger's *Introduction to Metaphysics* replaces Yale's previous translation, by Ralph Manheim. The new version is superior to the old and is one of the better Heidegger translations generally. Its superiority derives from its useful and extensive glossary, its serviceable notes, and, especially, its literalness. "We have tried to maintain a high degree of consistency in conveying key concepts... The point of this procedure is to let readers form their own interpretations of Heidegger's words, based on

their knowledge of all the contexts in which they appear... A common objection against so-called literal translations is that a single word can have many meanings, depending on the context... But the best way to suggest the shifting pattern of the meanings of a German word is to use one word in English that is amenable to undergoing a similar series of uses." This is certainly correct. It is a standard to which Field and Polt usually though not always adhere, but one ignored by too many other translators.

The *Introduction* is a series of lectures that Heidegger presented to students in 1935; it was first published in 1953. Although several of Heidegger's other works — *Being and Time*, *Nietzsche*, and other lecture series — are, I believe, either more important or more useful, the *Introduction* surely is significant. This is especially so for students of politics, because in it Heidegger briefly discusses the polis, values, the "ought," and the Nazis.

Near the end of the *Introduction*, while criticizing the notion of values, Heidegger writes: "In particular, what is peddled about nowadays as the philosophy of National

Socialism, but which has not the least to do with the inner truth and greatness of this movement [namely, the encounter between global technology and modern humanity] is fishing in these troubled waters of 'values' and 'totalities.'" Heidegger claimed to have written but not delivered the bracketed words in 1935, but he seems in fact to have first added the clarifying phrase in 1953. The reason for Heidegger's lie is that the earlier a phrase qualifying his support of the Nazis appears to have been written, the better he looks. But the lie hardly seems worth the trouble, because to praise the inner truth of such a monstrosity is itself always monstrous. At the least, Heidegger's qualifying phrase makes clear that he did not believe that his seeing something "great" in the Nazis was an odd personal or political mistake. Rather, it is connected to the heart of his thinking. For the questions of technology and "truth" are vital to Heidegger's understanding and are not mere throwaway terms.

The core of the *Introduction* is Heidegger's remarkable discussion of *physis*, *logos*, *noein*, *eidos*, and other central elements of ancient,

especially pre-Socratic, thought. Any serious student who believes himself to be oriented by Aristotelian political science, "natural" law, or Plato's ideas must come to grips with Heidegger's powerful analyses. They are similar in several respects to later discussions among students of political philosophy for which Heidegger helped pave the way; yet, for all the similarity, there are radical differences.

This is not the occasion to probe and explicate these differences or to discuss the limits of Heidegger's analysis. Suffice it to say, that one wonders whether, given Heidegger's discussion, the true limits and unity of political life can become clear, the path from practice to explicit philosophy can become evident, or the link between the everyday world and the world of what Heidegger calls the "creators" can fully be understood. Ancient political philosophy is as significant an alternative to Heidegger as he is to it.

Mark Blitz is the Fletcher Jones Professor of Political Philosophy at Claremont McKenna College.

REAGAN

CONTINUED FROM PAGE 13

Roosevelt and Reagan. Though he traces some links between the New Deal and the Great Society, Hayward emphasizes their differences. The New Deal was more interested in civil engineering, the Great Society in social engineering, he claims. Yet how could that distinction account for FDR's National Recovery Administration, not to mention Social Security? Hayward avers that Reagan "brought the Republican Party to the cusp of realignment, the consummation of which did not occur for more than another decade." So Reagan did not achieve what FDR did, a thoroughgoing partisan realignment of the classical type. "Reagan exposed the fractured and increasingly hollow character of what passes for liberalism..., preparing the ground of political debate on which American politics is still being conducted today," Hayward concludes.

Hayward measures the distance we've come from the Great Society with a sly juxtaposition. Campaigning in September 1964, LBJ got up on the roof of his car in Providence, Rhode Island, and gushed: "And I just want to tell you this: we're in favor of a lot of things and we're against mighty few." That's "as good a single sentence definition of Great Society liberalism as can be conceived," Hayward rightly observes. Thirty-two years later, another Democratic President told Congress, "The era of big government is over." That it was Bill Clinton who made this startling announcement might be regarded as doubly significant, a confirmation of how much LBJ's own party had matured. Then again, Clinton's career might cast doubt on the health or even the existence of the Republican realignment that Hayward thinks Reagan helped to accomplish.

Reagan himself had a deliberately

ambiguous relation to Roosevelt and the New Deal. Reagan liked to associate himself with Roosevelt, invoking FDR's name (and his 1932 promise of a 25 percent cut in the budget) even in his acceptance speech at the G.O.P. Convention in 1980. Yet Reagan repudiated FDR's programs and legacy, occasionally remarking (to the consternation of journalists) that "the basis of the New Deal was fascism." Hayward notes the ambiguity but does not clarify it, alas. It is odd that the author of a book implicitly comparing the two Presidents does not take more of a stand on Roosevelt's significance. Perhaps Hayward is reserving the subject for his second volume, which will be devoted to Reagan's presidency. In the meantime, *The Age of Reagan* is the best single-volume account of Reagan's rise and liberalism's fall. This superb book deserves and undoubtedly will get a wide readership.

Andrew Busch's *Ronald Reagan and the Politics of Freedom* begins where Hayward's history leaves off. Although aimed primarily at an academic audience, it is accessible to general readers who will find in it a high-minded defense of the goals and achievements of the Reagan Administration. These need a defense, particularly against the low blows and sucker punches that liberal academics love to throw. Busch, a professor of political science at the University of Denver, does an excellent job of warding off these blows and does some (he could do more) counter-punching of his own. He describes the 1980s as "a decade not of greed but of liberty," and argues persuasively that the Reagan presidency should be judged, in the first place, by its own standard, the enhancement of American freedom. For its intelligent and scrappy defense of Reagan's economic, social, and defense policies, Busch's volume wins a place on the short shelf of indispensable books about the

Reagan years — alongside Reagan's own speeches and the new collection of his radio addresses; the excellent first-person accounts of Edwin Meese, Martin Anderson, and George Schultz; and the illuminating studies by such as William Muir, Richard McKenzie, and Robert Bartley.

What distinguishes Busch's work, however, is its attention to Reaganism as "a new public philosophy." By the late 1970s, American liberalism had retreated into its own shell, arguing either that ideology was obsolete or that liberalism was the ideology to end all ideologies. In either case, liberalism could not be challenged on principle. Busch calls the resulting form of public policy and political debate "incrementalism," by which he means that because liberalism's ends could not be challenged, all that remained of political life was a stale debate about means and implementation — "a series of incremental choices framed within the context of 'compassion' and 'problem solving.'" This incrementalism, he points out shrewdly, "led Americans into a government far larger and more powerful than anything they would willingly have chosen had they been shown it in its entirety in 1932." Worse still, incrementalism appeared to be an automatic or ineluctable process, "for which there seemed to be no fixed point of responsibility." In short, "a fundamental transformation in the nature and ends of American government had taken place," without a serious debate and "without reference to the first principles of American politics."

Reagan insisted that these principles still mattered and forced liberalism to engage in an open debate about ends, not simply means. Reaganism, explains Busch, stood for a return to "reflection and choice" in American politics; a recovery, in theory and practice, of self-government. Busch's account of the epic stakes for which the Reagan Administration fought is excellent. He shows, in effect, that there

was a domestic Cold War raging that was more important in some respects than the Cold War with the Soviet Union.

Most of *Ronald Reagan and the Politics of Freedom* is devoted to the evaluation and defense of the Administration's policies in light of its return or attempted return to "the first principles of American politics." Busch downplays some of the divisions within the Administration on what those principles were, and he doesn't subject Reagan's own views of them to too much scrutiny. (Reagan's favorite shorthand for the founders' aspirations — "the ultimate in individual liberty compatible with an ordered society" — is actually more Wilsonian than Jeffersonian.) Federalism was "the constitutional lodestar" of the Administration, declares Busch, but what did this imply about the relation of states' rights to individual rights? Reagan spoke often of "the sovereign states," a formulation that Lincoln and most other Republican presidents would have rejected. The Administration's attempted return to the doctrine of enumerated powers was "a clear failure," Busch writes, though he lauds the effort to recover "the metaphor of enumerated powers." Perhaps the Reaganites would have gotten further if they had argued less about federalism and more about separation of powers and the nature of individual rights, two principles that cut closer to the bone of the modern liberal state.

Nonetheless, Busch's volume offers a bracing defense of Reagan's statesmanship — against conservative as well as liberal critics. For that, and for his helpful diagnosis of contemporary liberalism, he deserves our thanks. Taken together, these three new books remind us movingly of how much Ronald Reagan deserves our thanks.

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